TRANSFER OF BRIDGE ADMINISTRATION PROGRAM AND ALERTING AND LOCATING RADIO BEACONS REQUIREMENT

HEARING

BEFORE THE

SUBCOMMITTEE ON
COAST GUARD AND NAVIGATION

OF THE

COMMITTEE ON
MERCHANT MARINE AND FISHERIES
HOUSE OF REPRESENTATIVES

ONE HUNDREDTH CONGRESS

SECOND SESSION

ON

H.R. 4557

A BILL TO DIRECT THE SECRETARY OF THE DEPARTMENT IN WHICH THE COAST GUARD IS OPERATING TO REQUIRE ALERTING AND LOCATING EQUIPMENT, INCLUDING EMERGENCY POSITION INDICATING RADIO BEACONS, ON UNITED STATES UNINSPECTED VESSELS, AND FOR OTHER PURPOSES

AND

H.R. 4558

A BILL TO TRANSFER ADMINISTRATION OF BRIDGES AND CAUSEWAYS OVER NAVIGABLE WATERS FROM THE SECRETARY OF TRANSPORTATION TO THE SECRETARY OF THE ARMY, AND FOR OTHER PURPOSES

AUGUST 3, 1988

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TRANSFER OF BRIDGE ADMINISTRATION PROGRAM AND ALERTING AND LOCATING RADIO BEACONS REQUIREMENT

WEDNESDAY, AUGUST 3, 1988

U.S. House of Representatives,
Subcommittee on Coast Guard and Navigation,
Committee on Merchant Marine and Fisheries,
Washington, DC.

The Subcommittee met, pursuant to notice, at 9:30 a.m., in room 1334, Longworth House Office Building, Hon. Earl Hutto (Chairman of the Subcommittee) presiding.

Present: Representatives Hutto, Hughes, Pickett, Clement, Davis, Bateman, Coble, and Bunning.

Staff present: Gene Hammel, Jeanne Timmons, Larry Innis, Marsha Canter, Jim Witkowski, George Pence, Lee Crockett, Rebecca Feemster, Kurt Oxley, Joe Coccia, Duncan Smith, and Sherry Steele.

STATEMENT OF HON. EARL HUTTO, CHAIRMAN, SUBCOMMITTEE ON COAST GUARD AND NAVIGATION

Mr. Hutto. The Subcommittee on Coast Guard and Navigation will please come to order.

Today the Subcommittee meets to discuss two separate bills, H.R. 4558, the proposed transfer of the Bridge Administration Program from the United States Coast Guard back to the U.S. Army Corps of Engineers, and H.R. 4557, a bill to require alerting and locating equipment, including emergency position indicating radio beacons, on United States uninspected vessels. I would like to note that both of these bills were introduced at the request of the Administration.

The first bill to be discussed this morning is H.R. 4558, the bridge program transfer. Joining Mr. Jones, Mr. Davis, and myself as original cosponsors of the bill are the Chairman and Ranking Minority Members of both the full Committee on Public Works and Transportation and the Subcommittee on Water Resources.

Prior to 1967, the U.S. Army Corps of Engineers was responsible for managing the bridge program and had the responsibility of assuring freedom of navigation on the Nation's waterways. When the Department of Transportation was established in 1967, all transportation-related functions of the Government were to be located within that Department. Hence, the Coast Guard, which was transferred from the Treasury Department to the new Transportation Department was given responsibility for the administration of bridges and causeways.

For the past 20 years the Coast Guard has carried out the assigned duties of regulating and enforcing the Bridge Administration Program. However, recent environmental legislation has injected a much broader range of issues into the bridge permitting process and has created an overlap of responsibility between the Coast Guard and the Army Corps of Engineers. This duplication has decreased the efficiency of the bridge permitting process. It is not cost effective, it is confusing to the public, and it leads to problems over which agency is responsible for developing environmental impact statements.

H.R. 4558 is designed to eliminate existing problems and place all waterway construction-related projects in a single agency. No attempt has been made at this time to recodify existing bridge statutes. Except for the regulation of bridge and causeway lighting, the proposed transfer will completely remove the Coast Guard, including the regulation and operation of drawbridges, from the bridge administration process. This legislation should also increase efficiency and improve Government responsiveness to the public, which is a laudable goal in itself.

Before we begin today's testimony, Mr. Davis, I believe, has a statement for the record, as perhaps do other members.

[The prepared statement of Mr. Davis follows:]

STATEMENT OF HON. ROBERT W. DAVIS, A U.S. REPRESENTATIVE FROM MICHIGAN

Thank you, Mr. Chairman. Almost exactly six years ago, on July 28, 1982, this Subcommittee, quickly followed by the full Merchant Marine and Fisheries Committee, passed H.R. 6520 to transfer the authority of the Secretary of Transportation under the Act commonly known as the Truman-Hobbs Act to the Secretary of the Army. Since that time we have been patiently awaiting the Administration's proposal to accomplish that transfer.

I see two driving factors to this transfer of bridge administration authority: the first is to provide for the most efficient management of the bridge alteration program, and the second is to relieve the Coast Guard of any responsibilities that can or should be fulfilled by other Federal agencies, by state or local government, or by the private sector. This would permit the Coast Guard to once again focus its limited resources and energy on its primary mission of search and rescue, defense preparedness, pollution cleanup, and law enforcement. As early as 1981 in *Semi-Paratus*, one of the five major recommendations of the Merchant Marine and Fisheries Committee report was that "particularly strong consideration should be given to the transfer of some duties in the areas of bridge administration, commercial vessel safety, towing and salvage operations, and icebreaking" in order to close the growing gap between the Coast Guard's resources and responsibilities.

The witnesses today may point out difficulties they may have with H.R. 4558, but I have been assured that both commercial vessel traffic and recreational boaters will not be adversely affected by this change. I think we are all anticipating a successful return of bridge administration authority to the agency from which it originated.

Mr. HUTTO. Mr. Bunning is recognized for a statement. Mr. Bunning?

STATEMENT OF HON. JIM BUNNING, A U.S. REPRESENTATIVE FROM KENTUCKY

Mr. BUNNING. Thank you, Mr. Chairman.

I would just like to take a minute to welcome one of our witnesses to the Committee, Charlie Lehman, who is a constituent of mine from the Fourth District of Kentucky. Charlie has been around Congress a lot longer than I have. I realize that most of my colleagues on this Committee already know him.

But for those who don't or for those who don't know him very well, I just want to let you know that this fellow, Charlie Lehman, knows more about the barge industry than anyone else in the world. I think he was born on a barge, or at least back home they call him "Tugboat Charlie."

When he speaks to us today, he speaks from experience and a solid, firsthand knowledge of the industry. I would like to welcome Charlie to our Committee.

Thank you.

Mr. HUTTO. Thank you, Mr. Bunning. We also join in that welcome.

Mr. Pickett, do you have opening remarks?

Mr. PICKETT. I have no statement.

Mr. HUTTO. Mr. Bateman?

Mr. BATEMAN. No statement, Mr. Chairman.

Mr. HUTTO. Mr. Clement?

Mr. CLEMENT. No, thank you, Mr. Chairman.

Mr. HUTTO. All right. We welcome this morning testimony from Rear Admiral Robert Nelson, Chief of the Office of Navigation, Coast Guard Headquarters; Mr. John Doyle, Jr., Principal Deputy Assistant Secretary of the Army for Civil Works; and Mr. Charles Lehman, who was born on a barge, Vice President of Public Affairs, American Commercial Lines, Incorporated, based in Jeffersonville, Indiana.

I request that your oral testimony be limited, if you will, please, to 5 minutes, but be assured that your entire written statement will be included in the hearing record.

Gentlemen, we look forward to your testimony today. Admiral Nelson, will you please start?

STATEMENT OF REAR ADM. ROBERT T. NELSON, CHIEF, OFFICE OF NAVIGATION, U.S. COAST GUARD, ACCOMPANIED BY CAPT. JAMES M. SEABROOKE, CHIEF, BRIDGE ADMINISTRATION DIVISION

Admiral NELSON. Good morning, Mr. Chairman. I'm pleased to have this opportunity to meet this morning with you and the other distinguished Members of the Subcommittee to discuss a transfer of bridge administration to the U.S. Army Corps of Engineers.

I am Rear Admiral Robert T. Nelson, Chief of the Office of Navigation Safety and Waterway Services at Coast Guard Headquarters. I am accompanied by Captain James M. Seabrooke, my chief of the Bridge Administration Division.

The Department of Transportation Act, Public Law 89-670, in 1966 transferred several functions of the Army Corps of Engineers contained in statutes relating to bridges and causeways over navigable waters to the new Department of Transportation. The Corps retained responsibilities for regulating construction of all other structures in and over the navigable waters as well as regulating dredging and fill in said waters.

The rationale for this division of responsibility was to locate all transportation-related functions within the new Department of Transportation in that bridges and causeways that were considered to serve land transportation modes as well as impinging upon marine transportation.

This division of responsibility was initially quite effective. Subsequent legislation such as the Clean Water Act and the National Environmental Policy Act have created an overlap of responsibility between the two agencies in that bridge and causeway construction invariably involve permitting action at both agencies before construction can begin. This dual responsibility creates a process which is unnecessarily cumbersome for the applicant to obtain a permit and is administratively inefficient for the Government.

Safety and navigation considerations are woven through the three elements of the bridge administration program; namely, the approval of location and plans for bridges and causeways, regulating draw bridges, and alteration of unreasonably obstructive bridges. The bridge statutes, therefore, protect the Nation's waterways and their navigability. The Corps of Engineers already plays a significant role in navigation safety and maintaining free navigation through its waterway improvement programs and regulation of other construction projects.

Transferring administration of bridge statutes back to the Corps will place the administration and regulation of all construction-related projects in the navigable waters of the United States into a single agency. Duplication of effort in issuing of permits and responsibility for environmental documentation will be eliminated. Applicants will need only to apply to one agency for permitting construction and operation of all projects in the navigable waters of the United States.

This reunification of all waterway construction projects will improve the overall efficiency of the Federal Government and the Government's responsiveness to the public.

Mr. Chairman, this concludes a summary of my prepared statement.

[The prepared statement of Rear Admiral Nelson can be found at end of hearing.]

Mr. HUTTO. All right. Thank you very much, Admiral.

If Subcommittee Members will please refrain until we hear from the other witnesses, then we will begin our questioning.

Mr. Doyle, we'll ask you to proceed next.

STATEMENT OF JOHN S. DOYLE, JR., PRINCIPAL DEPUTY ASSISTANT SECRETARY OF THE ARMY FOR CIVIL WORKS, ACCOMPANIED BY DAVID BARROWS, ASSISTANT FOR REGULATORY AFFAIRS, AND BERNIE GOODE, CHIEF OF THE REGULATORY BRANCH, HEADQUARTERS, USACE

Mr. DOYLE. Yes, sir, I'd be glad to do so.

Mr. Chairman and Members of the Subcommittee, I'm John Doyle, Principal Deputy Assistant Secretary of the Army for Civil Works. I'm accompanied here today by Mr. David Barrows, at the end of the table, my Assistant for Regulatory Programs, and in the first row, Mr. Bernie Goode, Chief of the Regulatory Branch, Headquarters, U.S. Army Corps of Engineers.

I'm very pleased to be here this morning to discuss the Army's position on the transfer of the bridge administration program from the Coast Guard to the Corps of Engineers. But, before I do, Congressman Bunning, I absolutely have to second your comments about Charlie. There's no question that he's one of the most knowledgeable people in the country on the inland waterways and the barge towing industry. We were debating before we started here whether, having been born on a barge, he's progressed or regressed in coming to Washington, but we'll leave that as a matter to be determined later.

With your concurrence, Mr. Chairman, I'll only present a summary of my key points on this matter.

Mr. HUTTO. Without objection, your entire statement will be admitted into the record.

Mr. DOYLE. Thank you, sir.

First, let me state that I completely concur with Admiral Nelson's statement. While the Department of Army did not seek the transfer of the bridge administration program, we do support the transfer. Although that program is a difficult and controversial mission, the Corps effectively managed it for 77 years, and we have no doubt about our ability to manage it effectively again. Our only caveat to acceptance of the program is that we be transferred the Coast Guard's current resources to do the job.

There are clear advantages to the transfer, including elimination of duplication between the Corps and the Coast Guard and establishing a single agency to evaluate permits for bridges and causeways and to regulate all physical alterations of the navigable waters of the United States.

We fully recognize that, as with most transfers, there will be some short-term uncertainties such as relocation of Coast Guard personnel, the cost associated with the relocation, the time needed to overcome inefficiencies inherent in the initiation of a new program, and the procedural adjustments necessary to deal with the new responsibilities. But we believe the advantages of the change clearly outweigh the disadvantages and that good government argues on the side of consolidation of the bridge program within the Army Corps of Engineers.

The Corps and the Coast Guard have been working on the transfer for months and have developed a draft plan that will provide a smooth transition of the bridge program from one agency to the other. We don't foresee any insurmountable problems for the regulated public resulting from the transfer other than some minor difficulties that would naturally occur during any transition period.

One concern that we and the Coast Guard have had since we began discussions in late 1986 on this matter has been the morale of existing Coast Guard personnel. The longer the uncertainty regarding their future employment and the future of this program continues, the lower the morale is likely to become among those Coast Guard personnel. While I understand the requirements of the legislative process and the fact that it clearly will take time for that process to work its will, I gladly offer any support of myself or my staff to assist you all in any way to expedite a decision, whatever that decision may be, in the interest of those personnel.

Mr. Chairman, in closing let me state again that the Army supports the transfer of this program. We agree with the Department of Transportation that the transfer makes sense administratively and is in the best interest of the Nation. If the program is transferred, we will implement it fully and fairly to the best of our ability.

Mr. Chairman, that concludes my statement. I'll be glad to respond to any questions you or the members may have.

[The prepared statement of Mr. Doyle can be found at the end of the hearing.]

Mr. **Hutto**. Thank you, Mr. Doyle.

Mr. Lehman, it is good to see you again. I certainly agree with the comments that have been made this morning and would like to take this opportunity to thank you and your organization for all the help that you've been to our subcommittee. We look forward to your testimony.

STATEMENT OF CHARLES F. LEHMAN, VICE PRESIDENT, AMERICAN COMMERCIAL BARGE LINE CO., JEFFERSONVILLE, IN, REPRESENTING THE AMERICAN WATERWAY OPERATORS

Mr. **Lehman**. Thank you, Mr. Chairman and Members of the Subcommittee.

For the record, my name is Charles Lehman. I am testifying today to represent the views of the American Waterway Operators, a national trade association of inland and coastal barge and towing companies. AWO members operate their vessels on inland waterway systems at the East, West, and Gulf Coasts.

Our vessels navigate under and through literally hundreds of bridges, some that are lift type, some swing bridges, as well as many high-level, fixed type.

Any changes which might occur in governmental obligations regarding existing bridge programs or interpretation and consistency of regulation enforcement could severely impact our members' operations. Although the AWO does not oppose the transfer of the bridge authority if it will actually result in cost savings and efficiencies in government, we want to insure that the transfer does not cause disruptions in programs, policies, and procedures which might result in inefficiency for our vessels and boat personnel.

The Coast Guard assumed the bridge administration regulatory program from the Secretary of the Army when the Department of Transportation came into existence and the Coast Guard became a part of it. It apparently was believed at the time that the assumption of duties by the Coast Guard would make the program more efficient. Now the administration seeks to transfer back to the Department of the Army, under the guise of greater efficiency and cost savings to the Government.

Our comments today question whether these objectives in the case of bridge operations will in reality be achieved. It is contemplated that the 55 people now centralized in the Coast Guard bridge program will be scattered among 31 or 32 different Corps of Engineers locations. No meetings or discussions that I know of have been held with industry to effect a smooth transition between agencies and the private sector for cooperation in instituting these changes and their impact on safety and economic conditions.

Bridge outages, failure to effect repairs to protection work, inability or untimely responses to requests for opening draw bridges always produce delays. Delays translate into added costs for vessel operations which are, of course, ultimately passed onto consumers.

Many times bridge operational neglect or failures have resulted in unsafe navigating conditions. AWO members need assurance that this function transfer will not result in increased costs and additional safety problems due to lack of enforcement policy regarding bridge owners to abide by their responsibilities under the law and permit provisions.

We question whether enforcement capability for verification, investigation, and penalty assessment for violators will be possible by the dispersement of bridge personnel to a multitude of new offices.

The procedure for reporting incidents works somewhat differently in the various Coast Guard districts. Generally, however, if a master or an operator of a tug or a tow boat encounters a problem with a bridge, he can report the problem over his vessel's radio direct to the 24-hour manned Coast Guard safety broadcast station. If the problem is serious, such as a long-time outage or accident, the Coast Guard will broadcast a local notice to mariners alerting all navigators to the problem.

The Coast Guard, Mr. Chairman, is a water-oriented organization with pollution and harbor safety patrols, aids-to-navigation duties, and other missions directly involved on the navigable waterways. Coast Guard personnel will be transiting the same bridges as do vessels of the maritime industry. They also will be observing the same problems as do the commercial vessel operators and will report on them.

The Coast Guard has a day-to-day presence on the rivers and harbors of the United States in this safe bridge operation program that the Corps does not. The Coast Guard has a supportive operational backup group to those that are assigned to these bridge functions. In achieving the orderly transfer of the program, we must ask the Corps some critical questions. Do they intend to establish an interagency communication network? Will the industry have to report the daily problems we may encounter to both agencies? How will the reporting of corrective action be transmitted? How will it be acted upon? Will the Corps set up a safety broadcast system? Will they at least have a 24-hour number to call to report bridge outages and regulatory violations?

With some Corps district officers assigned no bridge personnel and others having only one person available, it does not appear that the required operational duties can be performed effectively.

The AWO can appreciate the efficiency which might accrue to the permitting and design phase of a person or agency wishing to construct a new bridge or to radically modify an existing one. Those functions might very well reside more effectively under the control of the Corps of Engineers. It appears to us, however, that the total transfer will result in a reduction of efficiency in the handling of bridge operational problems. At the very least, the 55 people to be transferred to the Corps will require an additional layer of bureaucracy to coordinate functions.

Additional personnel or increased manhours for existing personnel will be necessary to carry out investigation and inspection functions.

Finally, a communications network must be established between waterway carriers and the Corps of Engineers. As we have indicated, the AWO will not oppose this transfer if it can be shown that moving the bridge function from the Department of Transportation to the Department of the Army will insure actual efficiencies to the Federal Government and, conversely, not result in decreased efficiency, disruption of the information chain, and unsafe conditions for water carriers.

We thank you for this opportunity to testify, Mr. Chairman. We hope our comments will be useful in your deliberations.

We would additionally hope that the committee would not rush this bill to markup until there is time to evaluate all the operational considerations that are involved in this transfer.

Thank you, sir.

[The prepared statement of Mr. Lehman can be found at the end of the hearing.]

Mr. HUTTO. All right. Thank you, Mr. Lehman.

You ask some questions and maybe, since we have some people from the Corps here, maybe we'll just ask them those questions and see what the comments are.

Mr. LEHMAN. We appreciate that, sir.

Mr. HUTTO. Certainly I can understand that you have some concerns with this transfer, so maybe we can work it out for the good of all.

I understand that it takes anywhere from months, a couple of months maybe, to three years to process a bridge permit application. Admiral, would you and Mr. Doyle please explain to us the current application process and how the process will be improved if this transfer is completed?

Admiral NELSON. Mr. Chairman, the permitting process starts when the applicant submits a request to the Coast Guard. The request, depending on the circumstances, can take anywhere from three months to perhaps several years to process.

If it involves things like the wetlands, not only does the Coast Guard have to get involved in the permitting process, but the Corps of Engineers would have to get involved.

Perhaps the most difficult problem is the environmental assessment of the application. Depending on where that goes, a determination is made as to how we will proceed, either by hearings or by direct determination.

Mr. DOYLE. Mr. Chairman, if I can add to that, virtually every bridge and causeway permit that the Coast Guard issues in my understanding also requires a section 10 permit under the 1899 Act and a section 404 permit under the Clean Water Act. All three of those permit programs involve extensive interagency coordination. You don't, as you so well know and the Members of the Committee know, just involve our two agencies, but the Environmental Protection Agency, Fish and Wildlife Service, and other resource agencies of the Federal and State establishment also play in that process.

Mr. HUTTO. Has a cost-benefit analysis been completed to determine whether the streamlined application process will actually reduce time and cost to the public and the Government?

Mr. DOYLE. No, sir, there has not been any mechanical cost-benefit analysis that's been done. There has been a conceptual evaluation of the benefits that would result from the consolidation and from the transfer.

Mr. Hutto. Given the importance of this program to the navigability of our waterways, I'm concerned about operation of the bridge program during the transition period. There's a natural inclination for work to slow down during times when a change in administration is being considered. What steps are being taken to insure that projects presently being considered or underway are not delayed as a result of this proposed transfer?

Admiral Nelson. Mr. Chairman, there has been a detailed transition plan developed in extensive consultation with the Corps of Engineers. This covers all phases of the various aspects from Truman-Hobbs to bridge permitting to draw bridge regulations. It involves how the files, the budget, and other aspects of the programs would be transferred. It will definitely require a detailed workup with the industry.

I used to be Commander of the 2nd Coast Guard District and I worked a lot with the waterway people and with Mr. Lehman. I can assure him that we will work very closely with industry to mitigate their problems and to take into consideration the concerns that they have as we go through the transition period. We work with them in many other issues, as does the Corps of Engineers, and I think we can work out an excellent transition program.

Mr. Doyle. I totally agree with those comments. The essence of the draft plan that we have developed so far with respect to how to deal with ongoing activities in a way not to delay them is that ongoing activities, except those that will take an inordinate amount of time, something more than a year to resolve, will continue to be handled by the Coast Guard. New activities, new after the transfer, will be handled by the Corps.

I totally agree with the need for us to work with the inland waterway industry to come up with a transfer plan that works for everyone.

Mr. Hutto. I've heard that the Burlington, Iowa bridge in Coast Guard District II is nine months behind the schedule, partly because of the pending transfer. Is that correct, Admiral, or anybody? Can you tell me?

Admiral Nelson. Well, being behind is a relative thing when you talk about the Truman-Hobbs issues. This particular bridge, as I remember, a public hearing was held on 30 March. The Commander of the 2nd Coast Guard District now is preparing a preliminary report of investigation. So we are proceeding with the review of this bridge.

Mr. Hutto. I underlined Mr. Lehman's questions. Mr. Doyle, I guess I should ask you for your comments. He asked: "Do they intend to establish an interagency communication network?"

Mr. Doyle. Yes, sir, although I'm not sure—I'll have to deal with Charlie directly to understand more fully what he means, but obviously we will proceed in a way with this program, if it is transferred to us, that has the necessary interagency communication taking place.

Mr. Hutto. "Another question he asked: "Will the industry have to report the daily problems that we may encounter to both agencies?"

Mr. DOYLE. I don't believe so. As was mentioned, the totality of the construction-related activities on the inland waterways and the regulation of those activities will reside in the Corps of Engineers. So any problems that the industry notes with respect to those activities after the transfer will be reported to the Corps of Engineers.

The only items that will continue to need to be reported to the Coast Guard are the lighting responsibilities in connection with bridge operation.

Admiral NELSON. I concur in that, and I would say that while they will no longer have to report to the Coast Guard, the Coast Guard's communication stations will still be in place. If there is a need to get a hold of the Corps of Engineers and they are unable to through other procedures, they can contact us and we would be in direct contact with the Corps of Engineers expeditiously.

Mr. HUTTO. Okay, this next question I guess relates to that. "How will the reporting of corrective action be transmitted?" I think that's what you were alluding to, that the Coast Guard will still be there. These matters can be reported. I guess the followon question is will the corrective action be taken as it has been in the past or will it be slowed up or cumbersome or bureaucratic?

Mr. LEHMAN. Mr. Chairman, if I might expound just a little bit, you're getting pretty much to the heart of it. If our people can contact one group and, as we do now, we contact the Coast Guard 24-hour manned safety broadcast network, and then they go out and get the appropriate people to verify the problem, to investigate the problem, and take corrective civil action or criminal action, as might be necessary for a bridge owner. That's what we question: Will the Coast Guard continue to take those calls? Then, with these 55 Ex-Coast Guard people dispersed all over the United States, some Corps districts will not have any bridge personnel in their offices, others will only have one or two. In fact, I think, as I remember reading the list of where they would be transferred, there was only one Corps district that would have four people, two would have three, and some have none, and the others only one or two.

If it's on a weekend, or if a person is on vacation, or whatever, we are wondering who is going to deal with the problem even after, or if, the Coast Guard reports it to the Corps.

Mr. DOYLE. Let me react to that, if I can, sir.

Mr. HUTTO. Mr. Doyle?

Mr. DOYLE. First of all, not all Corps districts will have bridge individuals from the Coast Guard transferred to them because in our analysis there are unequal needs throughout the country with respect to managing those responsibilities that are being transferred to us from the Coast Guard.

Some districts, quite frankly, in the mountain region in the West don't need to have bridge regulation personnel to the same extent that folks in the southeastern part of the country might or the northeastern part of the country.

Secondly, it needs to be mentioned that by no means will we administer this program in the long term utilizing only the people who are being transferred to us from the Coast Guard. We have in place a regulatory staff that has been functioning for years to administer the section 9 and 10 permit program and the section 404 permit program. Those people will be utilized also to carry out bridge permit and regulation responsibilities.

Mr. HUTTO. All right. We are going to have to vote pretty soon, but I would like to give other Members a chance if they have any real burning questions before we go, and then we'll come back.

Mr. CLEMENT. Mr. Chairman, I won't ask mine now, but I would request that I may be allowed to submit my questions for the record, please

Mr. HUTTO. Without objection.

[Questions and answers can be found at the end of the hearing.]

Mr. HUTTO. If you can come back, we will be here.

Mr. BATEMAN. Mr. Chairman?

Mr. HUTTO. Mr. Bateman.

Mr. BATEMAN. Thank you. I, too, have some questions, but I'm also in a situation where I've got to get over to an Armed Services Committee thing after this vote.

Fundamentally, I'm disturbed that I'm sort of in that old saw about, "If it ain't broken, don't fix it." Nobody has told me very much about what's broken and how it's going to be fixed by this.

I'm concerned that I hear you saying that there a lot more offices in the Corps of Engineers than exist in the conduct of this program within the Coast Guard. That sounds, superficially at least, like it perhaps saves some—has a potential for saving money.

But if you're going to go from 11 offices to 55 offices and you're going to maintain the services on a 24- hour-a-day basis, it's going to take a lot more people under that regiment than in a smaller number of offices, it would occur to me.

We don't have time, or I don't have time, to pursue it and to get your answers today, but I would like to have these questions responded to for the record, Mr. Chairman.

Mr. HUTTO. We can take a couple of minutes, if they can, to do that. That's a very good question you've asked.

Admiral NELSON. If I could just respond, there are three aspects of the bridge administration program. There's permitting of bridges and causeways, which involves preparing environmental impact statements, et cetera, and there's the alteration of bridges under the Truman-Hobbs. Those two aspects relate to construction. The Coast Guard, as an operating agency, does not have expertise in this area of construction.

By moving it back to the Corps of Engineers, this represents about 95 percent of the bridge program. They have the backup and the——

Mr. HUTTO. Admiral, in the interest of time, that point is well taken, but it doesn't really convince me that you need to go beyond a transfer of the construction aspects of this, the permitting aspects of it, to the day-in, day-out administration-operational aspects of it.

Admiral NELSON. The concern, sir, is that draw bridge regulation which is really only about 5 percent of the workload: But, as Mr. Lehman has sensitized me when I was out in St. Louis for two years, this is very critical and very important to the industry. We work very hard to work with the bridge owners to make sure that they are responsive and, if they aren't, we have proceeded in penalty cases. I think we have been pretty effective as I think Mr. Lehman would acknowledge.

The problem is that the Coast Guard is going to give up all its people to the Corps for these other bridge functions, and so this expertise; those people that really handle it, will be gone. It's questionable whether we can perform that other 5 percent within our aids-to-navigation function because you do have to be familiar with bridges in order to function effectively.

Mr. BATEMAN. I think we have a vote on?

Mr. HUTTO. We do have a vote on. The Subcommittee will stand in recess for approximately 10 minutes until we can vote. We will be back.

[Recess taken.]

Mr. HUTTO. The Subcommittee will resume its sitting.

As Mr. Lehman stated in his testimony, it is critical to inform the public and concerned parties about changes that may affect their operations or daily routine.

What have the Coast Guard and the Corps of Engineers done or plan to do to inform and involve the railroads, the boating public, or the water-borne transportation carriers in the transfer and development of changes in this bridge program? Can someone answer that?

Mr. DOYLE. Mr. Chairman, I'll take a first crack at it. Our intention will be to use the Federal Register to notify affected parties as a minimum to the fact that the program is being transferred and to the procedures that will be used for purposes of the transfer. Then, of course, other mechanisms will be employed at the district level in the Corps with respect to individual parties at that level to make sure that the word goes out in an appropriate fashion.

Mr. HUTTO. Mr. Lehman, you expressed concerns about how the transfer will affect daily operations of your association's members and other water-borne traffic. We've talked some about this. If this transfer takes place, what type of communication system, can you say specifically what kind of system you think the Corps should implement?

Mr. LEHMAN. Yes, sir. Well, first off, I would say I would hope that prior to this transfer that the Corps and the Coast Guard would meet with the industry and all other affected parties to find out what all these problems are which concern the operational aspects as opposed to the permitting aspects of this transfer.

There are various ways that the communications network could be set up. I would personally like to continue to see, if the transfer does take place, the Coast Guard would receive the messages that our masters, or office people that understand the problems, would make to the Coast Guard safety broadcast network, and that in some way there would be an immediate response to whoever would be handling the problem in the various districts.

But the Corps really isn't set up on a 24-hour basis to deal with those things. Maybe they will be. Maybe during this period of communications with the affected public parties they will tell us what they are going to do, but we don't know what is going to happen at this particular time.

But then after the corps receives the problem that would be enunciated to them what are they going to do to go out and investigate it? How are they going to verify the problem? What are they going to do to assure that the bridge owner or operator takes the proper action to correct the problem? Those are our concerns, sir.

Mr. HUTTO. Mr. Doyle, since the Coast Guard is a 24-hour-a-day service, will they still be notified of emergency problems such as a draw bridge that's not operating or will you put in a 1-800 number that will be manned 24 hours per day? Just how do you envision this system working?

Mr. DOYLE. Mr. Chairman, I'm not sure that we have identified all of the details yet of the notification plan. We currently do use in some instances an 800 number in connection with our lock operations and problems associated with that portion of our program. I would have no objection whatsoever to utilizing an 800 number for purposes of dealing with problems related to the operation of bridges and causeways.

With respect to Mr. Lehman's concern about dealing with the agencies to work out problems, absolutely I agree and commit myself and the people of the Army and the Corps to do that.

With respect to the issue that he raised about enforcement, I need to point out again something that I tried to point out earlier in the hearing with respect to the regulatory part of our program. We do have in place a current regulatory system with supporting personnel involving approximately 900 people who are already involved nationwide in enforcing the same kinds of questions that will have to be enforced with respect to the bridge and causeway structures.

We would intend to utilize that force of people and the full range of our authorities to affect any appropriate actions relating to bridges and causeways.

Mr. HUTTO. All right, sir. Admiral Nelson or Captain Seabrooke, it's my understanding that 32 of the 55 civilian positions included in the transfer may be required to move to a new duty station. I believe that's the figure. How many of those positions are clerical and how many are professional positions such as engineers?

Admiral NELSON. There are six clericals.

Mr. HUTTO. Okay. The rest are professional——

Admiral NELSON. The rest are professional, yes, sir.

Mr. HUTTO. All right.

We're going to have to wind down because we have a hearing on another bill, but, finally, Mr. Doyle, I understand that there is a proposed draft implementation plan for transfer of the bridge program.

Would you provide this for the hearing record for us?

Mr. DOYLE. Absolutely, Mr. Chairman, we would be pleased to do so.

[Material to be supplied can be found at the end of the hearing.]

Mr. HUTTO. With that, we want to thank all of you for being here with us. It's been very valuable input into this proposed transfer. We are grateful for your comments.

Mr. DOYLE. Thank you, sir. Thank you for holding this hearing.

Admiral NELSON. Thank you, Mr. Chairman.

Mr. LEHMAN. Thank you, Mr. Chairman. I might just ask one further question, if I may. Do you still plan to mark this bill up rapidly or do you have time to study some of this new implementation plan which we hadn't received prior to today?

Mr. HUTTO. In view of the questions which you have raised and the fact that we haven't had a chance to study the draft implementation, I am inclined to think that we might delay somewhat.

Mr. LEHMAN. Thank you, sir.

Mr. HUTTO. That's my feeling right now.

Thank you all very much.

Mr. HUTTO. Now we turn to H.R. 4557, a bill to require alerting and locating equipment, including emergency position indicating radio beacons, more commonly known as EPIRB's, on certain United States uninspected vessels. The purpose of the hearing is to review issues relating to the bill, to ascertain the effect the legislation would have on safety at sea and reduced search and rescue costs for the Coast Guard, and to gather more information regarding an increasing number of false alarms purportedly caused by alerting equipment.

EPIRB's are intended as the alerting means of last resort when circumstances do not permit other means of communications. They also serve as a homing or locating device. Offshore, an EPIRB functions much like an electronic flare. The signal from the EPIRB can be picked up by commercial and military aircraft and satellites. The location of a person in distress is then relayed to available rescue aircraft or vessels, greatly reducing the area and time of a search.

I understand this legislation may reduce the search and rescue costs of the Coast Guard at a reasonable cost to the owners of an estimated 16,000 uninspected vessels, but, most importantly, more lives should be saved.

I'm sorry Mr. Joel Koslen of the Great Lakes Towing Company, Mr. Robert Jones of the Southeastern Fisheries Association, and Mr. Ward Mauck from the American Institute of Marine Underwriters will not be able to attend our hearing today. Any testimony received will be carefully reviewed, however, and will be entered into the hearing record.

[The material received can be found at the end of the hearing.]

Mr. HUTTO. I look forward to the testimony from the other witnesses that we have.

However, before we get into that, I call on the Ranking Minority Member, Mr. Davis.

STATEMENT OF HON. ROBERT W. DAVIS, A U.S. REPRESENTATIVE FROM MICHIGAN

Mr. DAVIS. Thank you, Mr. Chairman.

As this Subcommittee has strived to continually improve conditions for those whose livelihoods depend upon the sea, we have found that modern technology can be one of our greatest allies. This bill is one of those cases where the use of the relatively newly-developed equipment emergency position indicating radio, EPIRB, would help conserve the time and resources for the Coast Guard and most importantly it would we think help save lives.

The concept of requiring EPIRB's on uninspected vessels is worthy of passage and certainly one which I endorse. However, I feel there are a few exceptions which must necessarily be made for the sake of common sense. Although I am aware that there are other possible exceptions, I will mention only the specific case with which I am most familiar regarding harbor tugs operating on the Great Lakes.

On the Atlantic, Pacific, and Gulf Coasts, these vessels are not included in the requirement to carry EPIRB's because they normally operate within sheltered harbors and never outside the 3-mile limit. The all-encompassing nature of H.R. 4557 does not take these facts into consideration for the Great Lakes.

Without the statutory authority, the Coast Guard may not be able to make similar exemptions by regulation for the Great Lakes. Other areas of the country may also need similar treatment.

I look forward to hearing the testimony offered today and our future consideration of H.R. 4557, and hope that an accommodation can be made on the point that I just mentioned.

Thank you, Mr. Chairman.

Mr. HUTTO. Thank you, Mr. Davis.

I would like to welcome Captain Michael Schiro, who is the Deputy Chief of Marine Safety, Security and Environmental Protection of the Coast Guard. Captain Schiro is accompanied by Captain Anthony Pettit, the Chief of Search and Rescue.

Captain Schiro, I would appreciate it if you would keep your oral testimony to about 5 minutes or less. Your written testimony will be entered into the record in its entirety.

We're delighted to have you. You may begin your testimony.

STATEMENT OF CAPT. MICHAEL J. SCHIRO, DEPUTY CHIEF OF MARINE SAFETY, SECURITY AND ENVIRONMENTAL PROTECTION, U.S. COAST GUARD, ACCOMPANIED BY CAPT. ANTHONY J. PETTIT, CHIEF, SEARCH AND RESCUE DIVISION, U.S. COAST GUARD

Captain SCHIRO. Yes, sir. This legislation would fill gaps in the present authority to require EPIRB's on fishing vessels on the high seas. It would authorize EPIRB's to be required on fishing vessels and other uninspected vessels on the Great Lakes; alerting and locating equipment other than, or in addition to, EPIRB's could be required on the high seas or Great Lakes where appropriate. The law should be flexible so carriage requirements and exemptions can be determined in the rulemaking.

Present rules for EPIRB's and visual distress signals on inspected vessels include exemptions for certain vessels.

That concludes my summation, sir.

[The prepared statement of Captain Schiro can be found at the end of the hearing.]

Mr. HUTTO. Well, we thank you for your brevity. [Laughter.]

It's a joy to have someone like that. We may have lunch today—on time, I mean.

Thank you very much, Captain Schiro.

EPIRB's are a relatively new search and rescue tool. What did you do before EPIRB's and what impact have EPIRB's had on search and rescue?

Mr. PETTIT. Mr. Chairman, before we had EPIRB's, we depended primarily upon the radio two-way communications, both voice and Morris code communications, visual signals for alerting, and primarily upon visual searches for locating vessels.

The effective ranges for some of this equipment was not very great. We didn't have such a thing as an electronic search as we know it today.

In many cases people had to abandon ship before they really had time to get off a distress call. So the EPIRB brought, the float-free EPIRB in any event, brought with it the capability to get out an alert when pretty much all else fails. So that has been a great advantage.

It also provides us with a continuing signal that we can home on electronically which is a great enhancement, particularly in foul weather when a visual search would not be appropriate.

Clearly, the EPIRB's have brought with them some problems. A lot of these problems have come from the fact that we're trying to use our satellites with beacons that were really never designed to be used in satellites.

With the development of a satellite system to pick up beacons, we've been able from the ground up to design something that really works to our best advantage.

So I would say that with the new 406 beacons we've got an enormously more effective tool than what we had with the older beacons where we tried to adapt the satellite system just to acknowledge that they're out there and to do the best that we could with the technology.

So we see some tremendous advantages to the beacons and the satellite system, but we look forward to fully implementing the new technology to make it totally effective.

Mr. HUTTO. So new technology is being researched and will be available soon, and this is something you think will be around for a while?

Mr. PETTIT. Well, yes. Our satellite system is fully operational on the new 406 frequency.

Mr. HUTTO. So it's here now?

Mr. PETTIT. Absolutely; yes, sir. It will be with us for a long time to come.

Mr. HUTTO. But would this bill require the 406 megahertz EPIRB or will vessel owners be able to use the 121.5 megahertz and the 243 megahertz EPIRB's now on the market?

Mr. PETTIT. We would expect some kind of a phase-in period. Clearly, if somebody were going to put a new EPIRB aboard their vessel, it should be a 406 EPIRB, but we recognize that there may be a lot of people out there carrying the existing beacons and we would recognize the cost implications of making them replace those right away.

Mr. HUTTO. Is that an EPIRB or some other obstacle in front of you there?

Mr. PETTIT. Yes. I should introduce our two EPIRB's here. These are two different varieties. The one on my left, the taller one, is a 406 new generation, American-made prototype. That's a float-free variety, although the float-free holder is not here.

This is a class S type which we presently require. This is also an American manufacturer. That type would be required in life rafts on large ocean-going ships.

Mr. HUTTO. The second one is the older one; is that correct?

Mr. PETTIT. That's correct. This is the 121.5 beacon and it's manually operated, although it will float. This one here is automatically activated when it floats free.

Mr. HUTTO. Okay, in other words, it activates automatically if it's—what do you have to do to activate it?

Mr. PETTIT. The float-free variety is very similar to a float-free life raft with a hydrostatic release mechanism. When the vessels gets to either a certain depth or a certain attitude, the beacon releases and automatically starts transmitting.

The place where you would have a manually-activated beacon would be one that's carried in a life raft or some secondary purpose other than the float free. The absolute best clearly is the float free.

Mr. HUTTO. Okay, but is the 406—is it being marketed now, this newer one?

Mr. PETTIT. This one is an American manufacturer, but it's built to British specifications because we don't have published the authority to make these in the United States. So, yes, other nations are producing 406 beacons.

Mr. HUTTO. What agency has to approve it? Is that the FCC?

Mr. PETTIT. The FCC; yes, sir.

Mr. HUTTO. Okay. Do they have this under consideration?

Mr. PETTIT. They have their rule moving along smartly, yes, sir.

Captain SCHIRO. I believe it will be ready in September.

Mr. HUTTO. It should be approved by September?

Captain SCHIRO. Yes, sir.

Mr. HUTTO. Okay. What will be the availability of the 406? You say it's not really in production yet, but this would be rather quickly or would it take a number of years, or how long?

Mr. PETTIT. I know that Mr. Adams is going to testify following, and I think that he can probably give you a better answer on that, sir.

Mr. HUTTO. All right. How much do the EPIRB's that are now being marketed cost and how much do you anticipate the 406 will cost?

Mr. PETTIT. The float-free variety, which are more expensive because of their activation mechanism, the release mechanism, are in the neighborhood of $500 now. The float-free variety of a 406 beacon we would expect to be initially in the neighborhood of $2,000, but we would hope that that price would come down as they are produced in greater numbers through the phase-in period.

Mr. HUTTO. The difference in expense, is that because of the technology, because it's new, or what?

Mr. PETTIT. A lot of the difference is related to the quality of the product. These will be much more reliable than a lot of the beacons that we have out there. The technology is a piece of it, but I would say probably more of it relates to the quality specs.

Mr. HUTTO. False alarms have been causing a significant problem for the Coast Guard search and rescue units, and many of these false alarms are being caused by EPIRB's. Do you have the background information on false alarms and the resultant costs to the Coast Guard and other agencies?

Mr. Pettit. Yes, I do have some information on that. Up front I would have to say that I think perhaps people are expecting more savings to the Coast Guard than might exist.

We did some calculations and concluded that we spend about a million dollars a year tracking down false alarms. I should point out that we really cannot track them all down. We can launch every time we get a satellite system alert. If we tried to do that, we would spend a great deal more money.

Generally, we have to wait for some corroborating information or another satellite pass before we can launch to check these out.

Also, a large portion of our costs occur with the overdue vessels where we never hear anything from them, and somebody reports them at some point in time and we spend a lot of search hours on those cases, some 15 times as much per case as we do on tracking down false alarms. That's where a lot of our money is spent. We would hope that a portion of that would be saved.

Mr. Hutto. What can be done to cut down on the false alarms?

Mr. Pettit. We've initiated a number of measures, realizing that we will have to live with these existing 121.5 beacons for a number of years. Those have to do with awareness programs, being able to turn them off more quickly through local authorities, improvements to our software on the ground system which will screen out some of those signals based on various factors, so that we won't have to track them down.

But, of course, the ultimate solution is to go to the 406—fully implement a 406 system.

Mr. Hutto. Captain, do you still believe EPIRB's are cost-effective to the Coast Guard and this legislation is important to assist your search and rescue mission? To get to the bottom line, how much money do you believe the Coast Guard can save each year in search and rescue costs if this legislation is approved?

Mr. Pettit. I think if it boils down purely to costs for our hardware sorties, we're talking from $1 to $2 million a year initially. That will probably amount to considerably more through time.

I think a greater advantage perhaps is the saving of lives because we can respond much more quickly. As you're well aware, in the cold water environment, that's really the crucial factor.

Not counting any cost for lives saved, but merely the cost of the hardware, I'd say initially $1 to $2 million a year.

Mr. Hutto. Okay. Mr. Davis?

Mr. Davis. Either one of the gentleman could answer this. In section 5108 of title 46 of the U.S. Code, there is authority for the Secretary to grant special exemptions to load line requirements. The origin of this section is based upon the special case of barges operating close to shore on Lake Michigan. Wouldn't it make sense to give you similar authority for meritorious cases just as in title 46 of the U.S. Code, section 5108, to exempt special cases from the requirement to carry EPIRB's?

Captain Schiro. I can answer that. We're not looking in legislative authority for exemptions. We would prefer to handle that in rulemaking. But if an exemption was sought, we would prefer not to exempt them from the requirement for EPIRB's or locating equipment, possibly just only for having the EPIRB itself, because, as it stands now, we don't have the authority for visual equipment in the same place. We would like to be able in rulemaking to consider using other than EPIRB's, say, three miles from shore on the Great Lakes.

Did I answer that?

Mr. DAVIS. Yes. Let me ask a question about—and I'm not that familiar with all of this. We have a lot of small fishing, commercial fishing vessels in Michigan. I don't know what the effect would be on them. Would they all be required to have one of these systems on their boat if they go beyond three miles? Some of these are real small 12 footers.

Captain SCHIRO. For fishing vessels——

Mr. DAVIS. On the Great Lakes—I'm talking about only on the Great Lakes.

Captain SCHIRO. On the Great Lakes, as it stands now, we're considering for all fishing vessels, for all uninspected vessels on the Great Lakes a requirement for either an EPIRB or some other alerting and locating device, a signal, smokes, flares, whatever. But we don't necessarily feel that in all cases it would be necessary for small vessels that operate within three miles of land to have an EPIRB. That's something we would want to look at and consider.

The answer is we do not feel that all vessels that operate within three miles from land necessarily need an EPIRB, but we'd want to consider that.

Mr. DAVIS. Don't a lot of these small ones go beyond three miles?

Captain SCHIRO. They do, but when you go beyond three miles, you have other problems with just pure visual aids for loading and locating. Depending upon the weather or depending upon the area you are in, you may not—a vessel, a small vessel would have a low profile, and you wouldn't be able to see it. So that's why we would want to consider possibly having EPIRB's for anything that goes beyond three miles.

Mr. DAVIS. What's the cost of these two systems right now, and do you anticipate that the cost would—maybe you have already answered this; I didn't catch it—will go down? What are these going to cost?

Captain SCHIRO. It was already answered that the float-free would be around $2,000, the 406, the new ones. Hopefully, in the future it will be down to around $1,500 when more of them get into production.

Mr. DAVIS. That's a lot of money for a small, a real small fishing vessel.

Captain SCHIRO. Well, that's another thing that we would have to do as far as the rulemaking process, is justify the expense for the different types of vessels in different areas. It would be taken into account.

I might point out further that the cost of one of these is less than half of what you would pay for a life raft. If you were, as in some cases where you only have three minutes before your boat—you're in the water, you may not be able to get off a radio communication to let a person know that you're in distress. Without an EPIRB, it's difficult, if we don't know where you are, it's difficult to find you.

Two thousand dollars is expensive for some people, but if you're buying a life raft, the extra expense is not that much.

Mr. DAVIS. Do you have the statutory authority to require—to exempt, I mean, all those vessels that you're talking about possibly wanting to exempt? Do you have the authority to do that?

Captain SCHIRO. We don't have the statutory authority to exempt them, but we would do it in the rulemaking process.

Mr. DAVIS. Wouldn't you need statutory exemption? Wouldn't it be better to have it?

Captain SCHIRO. If we have statutory authority to require an EPIRB or alerting and locating equipment, it doesn't necessarily mean that we have to require it. In the rulemaking process we could feel that—and I think the way the wording is—it's "requiring, alerting, and locating equipment including emergency position indicating radio beacons, or EPIRB's," and we feel that alerting and locating is not necessarily an EPIRB; it doesn't have to be an EPIRB. It says "or EPIRB's."

In the rulemaking process if we determine certain classes of vessels operating in certain areas don't need an EPIRB, we would not require it. So I don't feel we would need an exemption in legislation.

Mr. DAVIS. Thank you.

Mr. HUTTO. Thank you, Mr. Davis.

To follow up on Mr. Davis' question, there is some concern by the Southeastern Fisheries Association, for example, that mullet skiffs—they do go beyond three miles, but not out of sight of land. I think that their feeling is that perhaps these small boats should be required maybe to have some other visual distress signal such as flares or smoke signals on these uninspected vessels, in addition to EPIRB's or rather in place of EPIRB's, in the case of vessels that operate within the sight of land or potential rescuers.

Is that something that you think the Coast Guard is looking at or what are the possibilities of making some kind of distinction, if you will, between those that operate short distances or within sight of land who might be burdened by an additional cost of a $2,000 EPIRB.

Captain SCHIRO. As I have already indicated, it's one of the things that we are concerned about and we're looking at. However, we feel that once you go beyond three miles, then it gets much more difficult to use a visual type alerting to be effective. It's something that we have to consider and will consider in the rulemaking process, but we feel that once you go beyond three miles, then the effectiveness of visual signals is limited.

Mr. HUTTO. Okay. Let me ask one additional question here. Would you describe the operations, membership, organization, and future of the joint venture project known as Search and Rescue Satellite-Aided Tracking, or SARSAT?

I understand that areas, vast areas, of the Pacific and Atlantic Oceans within Coast Guard jurisdiction are not presently being covered. Why is this and when do you plan to cover these areas?

Mr. PETTIT. Mr. Chairman, I'll take that question.

The SARSAT venture is a joint satellite system operated by France, Canada, the Soviet Union, and the United States. That's the space segment of the system.

Some international organizations such as the International Maritime Organization, have taken steps to incorporate this system into the global SAR system. SARSAT is being used and supported by many other countries.

The U.S. responsibilities for the system are shared by the Department of Defense, NASA, NOAA, and the Coast Guard. This infrastructure will support the space segment and the international coordination that's needed for the system, but we do have some concerns, as you alluded to, with our national ground segment.

Satellite information is received, processed, and relayed by ground stations. Each ground station has a coverage footprint on the surface of the earth. Now between the two different kinds of beacons that we're talking about, the importance of the ground system or earth station, receiving station, is greater or lesser.

The big difference is that with the newer beacons the satellites will store data and then transmit the data down to the first earth station that they come across. The older beacons that satellite will not store data and an alert will only be received if the satellite and the beacon going off and an earth station are all within the same footprint.

Realizing that we will have a lot of the older beacons around for some period of time, we recognize that we've got to provide earth stations that will pick up the old beacons.

In addition to that, more earth stations will give us a quicker response even with the new beacons because we won't have to wait for the satellite to dump to some earth station on the other side of the earth and pass it through a ground system.

Our goal is to cover 100 percent of the Coast Guard's maritime SAR area responsibility with earth station footprints. Currently, we have about 50 percent of our Pacific area and about 80 percent of our Atlantic and Caribbean area covered with earth stations.

These are experimental prototypes that we have been using for a number of years and they are becoming difficult to maintain. We feel that the national system should consist of about five good, up-to-date earth stations, and we have been unsuccessful in recent years in both filling out our share of the earth stations and replacing the older ones.

We do have a fiscal year 1990 budget initiative for two new earth stations to fill in the area that's most sorely needed, but we're hopeful that we'll be able to get new earth stations in place before that.

Mr. Hutto. Captain Schiro and Captain Pettit, we thank you very much for your testimony. We may have some further questions that we would ask you to submit the responses for the record.

[Questions and answers can be found at end of hearing.]

Mr. Hutto. The second panel coming before us may have some testimony that we might want you to respond to so I would appreciate your staying in case we have questions.

Mr. Hutto. We now will call up our second panel on this bill, H.R. 4557, and they are Mr. Joseph T. Nall, Member of the National Transportation Safety Board, and Mr. William T. Adams, President, Radio Technical Commission for Maritime Services.

If you gentlemen would come forward and be seated, we would like to welcome you to our Subcommittee. As I asked the earlier panelists, I would appreciate it very much if you would also limit your testimony to no more than five minutes. Your written testimony will, however, be entered into the Subcommittee's record in its entirety.

Mr. Nall, Mr. Adams, you gentlemen are welcome. We ask you, Mr. Nall, if you will begin your testimony.

STATEMENT OF JOSEPH T. NALL, MEMBER, NATIONAL TRANSPORTATION SAFETY BOARD, ACCOMPANIED BY WILLIAM H. GOSSARD, TRANSPORTATION SAFETY PROGRAM SPECIALIST, NTSB

Mr. NALL. Thank you, Mr. Chairman and Members of the committee.

I have with me Bill Gossard of our Safety Program Bureau, who also may assist in answering questions.

Mr. HUTTO. We're delighted to have him. Thank you.

Mr. NALL. Mr. Chairman, Members of the Committee, it is a pleasure to appear before you today on behalf of the National Transportation Safety Board. We share with the Congress and others a common dedication to promoting safety in the maritime industry, and I want to commend you for holding this hearing.

I am particularly pleased to have this opportunity to address the need for locating and alerting equipment, including EPIRBs on uninspected vessels operating on the high seas or the Great Lakes.

The Safety Board has had a longstanding commitment to improve the safety of uninspected vessels. For example, in 1987 the board conducted a study on uninspected commercial fishing vessels. One of the recommendations made in that study was expansion of basic lifesaving equipment requirements including EPIRB's and operable emergency radios.

In 1984, the U.S. fishing vessel Amazing Grace was lost about 80 nautical miles east of Cape Henlopen, Delaware. The search for the Amazing Grace alone cost $12 million.

A more recent accident investigated by the Safety Board, the loss of the fishing vessel Nordfjord in Alaska, in late 1987 along with five lives cost $500,000 for search activities.

Every year Coast Guard search and rescue efforts for non-EPIRB-equipped vessels is estimated to be about $20 million.

In 1986 the Congress expressly provided that each uninspected vessel, fish processing, or fish tender vessel operating on the high seas shall be equipped with the number and type of EPIRBs prescribed by regulation.

As a result of this congressional initiative, the Coast Guard's final rule has been prepared and is now under review by the Office of Management and Budget.

With your permission, Mr. Chairman, I would like to submit for the record copies of letters that the Safety Board wrote Monday to OMB and DOT to expedite this rulemaking.

Mr. HUTTO. They will be admitted for the record.

[Letters can be found after Mr. Nall's statement at end of hearing.]

Mr. NALL. This rule will address the interface of EPIRBs with the COSPAS/SARSAT satellite system. The new EPIRBs, which also will transmit a vessel's identification in its signal, may greatly reduce the Coast Guard's search and rescue expense and reduce the response time.

The capsizing and sinking of the U.S. sailing vessel Pride of Baltimore in the Atlantic Ocean on May 14, 1986 led the Safety Board to recommend to the Coast Guard that it seek authority to require uninspected vessels on voyages offshore to carry a class A EPIRB and in the interim period continue to encourage their use. This proposed legislation clearly addresses that recommendation and for that we are grateful.

Another accident reflects our concerns over verification of EPIRB signals and the high false alarm transmissions by aircraft emergency locator transmitters on the same frequency.

To illustrate, in 1987 the U.S. charter vessel Fish-N-Fool capsized and sank in Mexican territorial waters just west of Baja, California Norte. Most of the 12 persons on board were on deck at the time of the capsizing and were thrown into 62 degrees Fahrenheit sea water.

The captain was in the wheel house and was seen after the vessel capsized. Eight people began swimming toward an island two and a half miles away. None was wearing a personal floatation device. The alternate operator remained near the vessel and managed to board a life boat.

In this case the EPIRB operated as designed, but valuable time was lost as the Coast Guard search and rescue response was delayed because it awaited verification that the EPIRB signal was legitimate and not a false alarm from an EPIRB or ELT.

One passenger was rescued near the island seven hours later by a Mexican fisherman. No more survivors were found.

Among the safety issues we identified in this investigation were problems caused by the high false alarm rate of ELTs, confounding actual EPIRB transmissions, and we have recommended to the FAA steps to correct this problem.

Specifically, the Safety Board recommended that the FAA require that existing ELT transmitters be replaced by 1989 with ELTs complying with TSOC91A and that ELTs be subject to specific maintenance requirements.

The board hopes action will be taken to eliminate false alarms. The success of an international COSPAS/SARSAT system buttressed by 406 megahertz EPIRBs on inspected and uninspected vessels we believe will play a critical role in eliminating costly and unproductive searches for missing vessels.

The board supports the efforts of this committee in passage of H.R. 4557.

Mr. Chairman, I will be glad to respond to your questions.

[The prepared statement of Mr. Nall can be found at end of hearing.]

Mr. HUTTO. Thank you, Mr. Nall.

Mr. Adams, we're ready for your testimony.

STATEMENT OF WILLIAM T. ADAMS, PRESIDENT, RADIO TECHNICAL COMMISSION FOR MARITIME SERVICES

Mr. ADAMS. Thank you, Mr. Chairman.

I am William Adams, president of the Radio Technical Commission for Maritime Services, more often referred to in the maritime community as RTCM.

Your invitation to this hearing advised that the subcommittee is particularly interested in knowing the effect the proposed legislation would have on safety at sea and on learning more about false alarms caused by EPIRB's or other alerting equipment.

In regard to the potential effect of the legislation on safety at sea, it should be recognized that the primary telecommunications problems associated with safety at sea center about several considerations.

In particular, I would cite first, minimizing delay in receipt of a distress alert.

Second, provision of sufficient information in the distress alert to identify the call as valid and to provide an indication of vessel size and/or type.

Third, availability of location information with sufficient accuracy to permit rapid arrival of rescue forces at the scene of distress.

A device providing some of the capabilities cited above has been mentioned earlier today. This is the 121.5 emergency position indicating radio beacon. The signal of this beacon can generally be detected by the COSPAS/SARSAT system, although this EPIRB is prone to false alarms, does not provide identification, and accuracy of location is poor.

A far more effective device, also mentioned earlier, which provides the required capabilities and, additionally, eliminates the deficiencies of the 121.5 megahertz EPIRB is the 406 megahertz satellite EPIRB.

The 406 MHz satellite EPIRB is now operating worldwide through the COSPAS/SARSAT satellite system and is available in many areas of the world today. I am sorry to say, as mentioned earlier, that it is not yet legally available in the United States, pending completion of authorizing rulemaking by the Federal Communications Commission.

But there is no doubt that the carriage of 406 megahertz satellite EPIRB's by uninspected vessels to meet the requirements of H.R. 4557 would save lives by substantially improving response time of rescue forces in reaching those in distress or substantially reducing the manhours of ineffective aircraft and search time currently employed in checking overdue reports and responding to false alarms.

You have raised the question of a false alarm problem. Certainly history tells us that any system of calling for help is subject to false alarms, whether it is the use of the telephone with 911 or the use of a radio with existing maritime radio distress frequencies.

To place in proper context, however, the highly publicized false alarm problems associated with emergency radio beacons currently in use, I would suggest that the following facts be taken into account:

First, the aeronautical emergency beacon, known as an emergency locator transmitter, or ELT, contains a crash-activated G-switch which has been identified as a significant source of false alarm problems. The maritime EPIRB, the devices which would be the subject of this legislation, would not contain this type of device.

Second, there are no reliable false alarm studies which clearly differentiate between the extent of the maritime EPIRB and aeronautical ELT false alarm problems.

Third, we do know that maritime false alarms sometimes result from inadvertent activation of the devices when removing the existing 121.5 EPIRB's from their float-free brackets for storage below. In other instances, improperly protected manual on-and-off switches have been accidentally triggered.

Fourth, I would note, however, that these are problems of the existing 121.5 megahertz EPIRB's, which will not exist with the new 406 megahertz satellite EPIRB's because of the standards which they will be required to meet and the testing to which they will be subjected to verify compliance with the standards.

Fifth, we also know today that we have false alarms which come from interfering sources other than either maritime or aeronautical beacons. This problem will become a nonproblem as we move into the world of the 406 megahertz satellite EPIRB since the signal of that beacon will be clearly identified and differentiated from other interferers which are not in fact emergency beacons.

Finally, I would note that the ability of the new 406 megahertz satellite EPIRB to provide both user identification and a relatively high accuracy position location will in any event drastically reduce problems created for the rescue forces by any false alarms that are received.

As a result, we believe that the false alarm problem existing today with 121.5 megahertz EPIRB's will not exist with 406 megahertz satellite EPIRB's designed and tested to currently recommended standards.

In summary, it is my view that carriage of 406 megahertz satellite EPIRB's or comparable alerting and locating devices by uninspected vessels on the high seas, as proposed by H.R. 4557, will substantially enhance the safety and survivability of persons on those vessels in the event of a casualty while simultaneously reducing the resources that would otherwise be expended by rescue forces in search and rescue operations.

I thank you, Mr. Chairman. I will be very happy to answer any questions you may have.

[The prepared statement of Mr. Adams can be found at the end of the hearing.]

Mr. HUTTO. All right. Thank you, Mr. Adams and also Mr. Nall, for your excellent testimony.

You have cited several compelling cases supporting EPIRBs in your testimony, but I still have concerns about the increasing number of false alarms that are being reported and the Coast Guard's need to wait for at least two satellite passes to confirm a distress before committing assets. We've heard this morning that EPIRBs based on 406 megahertz will correct many of the problems of false alarms created by ELTs and the EPIRBs on the market today, and I'm assuming that you both would agree with that. Do you?

Mr. NALL. I do.

Mr. ADAMS. Yes, Mr. Chairman, may I note, in particular, to key just for a moment on a particular problem you cite, the number of passes before a response is made. Let me give you a specific example in that regard.

When the satellite passes over the person in distress who has the beacon, the satellite picks up, in effect, two positions, a true position and a mirror image. These may be hundreds of miles apart.

With the existing 121.5 megahertz system, the ability to differentiate the true position from the mirror image on a first pass is somewhere in the neighborhood of 50 to 60 percent. It improves with second passes and further passes.

With the 406 megahertz satellite EPIRB, the probability of detecting the true position on the first pass is about 90 percent and it certainly approaches 100 percent on a second pass. So this clearly will have a severe impact on the problems that exist now. The first pass/second pass problem will be to a great extent eliminated.

Mr. HUTTO. It sounds like a very significant improvement.

Mr. NALL. Mr. Chairman, could I make a brief comment here as well?

Mr. HUTTO. Yes, sir, Mr. Nall?

Mr. NALL. I agree that this will go a long way toward solving the false alarm problem.

I want to make another point here. There is not only a false alarm problem, there is a no alarm problem. I hope in the rulemaking and in the implementation of these devices there will be an aggressive educational effort to make the users of the equipment aware of its limitations, of the corrosive nature of the environment in which it's operated, and of the importance of keeping them properly maintained and inspected.

It's not enough just to install them. We see, unfortunately, instances where the alarms do not, in fact, activate. Also, we recently discovered an experience of a fisherman who had donned a survival suit. You are familiar with those and are familiar with the nature of the gloves on them. He was in a life boat. The switch was so small on the EPIRB he could not activate it. That sort of human engineering concern has to be considered in the regulatory process, surveillance activities and the educational process. Let's not forget that it's not only the installation of these devices, but the human engineering side of it that must be taken into account, as well as the use, maintenance, inspection, and upkeep of the devices.

Mr. HUTTO. Good point, good point. Thank you.

Will the new EPIRBs be able to tell the difference between the ELTs and marine EPIRB distress calls?

Mr. ADAMS. Yes, Mr. Chairman, the identification feature provided on the device itself, the signal it emits will clearly identify the user. It will specifically identify the particular user. It may be coded, for example, with an aircraft tail number or a ship's call sign or a serial number which would be fed into a database back at the rescue center to determine the specific user above and beyond just the type of user.

Mr. HUTTO. As I understand it, the 406 megahertz EPIRB will, among other things, provide data such as vessel identification and a strobe or flashing light in addition to the location of the distressed person or boat. This additional capability will cause the new EPIRBs to cost significantly more than EPIRBs on the market today. Is this additional information needed to reduce rescue time and save lives or is it just something that would be nice to have?

Mr. NALL. From the Safety Board standpoint, we feel that the implementation is necessary, it's critical. It's not just an important frill. It is necessary for quick response and the saving of millions of dollars in search and rescue monies.

Mr. ADAMS. May I also comment, Mr. Chairman? The cost of the strobe light is rather inconsequential in reality. You can buy—and, incidentally, we do recommend in the United States standards that were developed within our committee with both Government and non-Government experts participating strobe lights rather than flashing lights. You can buy a strobe light today for about $20 or $25. Some small additional cost will result from the battery capacity that the strobe light will require.

The bottom line, however, is the cost of the beacon is not seriously affected by the strobe light cost and, while the light has very substantial safety advantages.

Mr. NALL. We are hoping we will also see, as a result of the installation, lower insurance costs which would then somewhat offset the initial cost of the purchase, especially when amortized over a few years.

Mr. HUTTO. Okay. You heard the Coast Guard testify as to the cost of the two systems. Do you go along with those figures, and do you think that the cost will be going down significantly with the production, and so on? How long will it take for it to get down to a lower level?

Mr. ADAMS. Mr. Chairman, if you tried to buy a single beacon today in the United States, assuming that we had the legal rulemaking to buy it, you would find a price very close to $2,000. It's equally true, however, our neighbors to the north who have, in fact, completed some of their rulemaking processes in Canada have been quoted prices down in the $1,500 range when bought in moderate quantities, meaning perhaps 10 to 15 beacons, something of that nature, at a time.

So I think, yes, the figures given by the Coast Guard are in line with what we see happening. It's equally true that the cost will certainly go down as we see a number of manufacturers in the marketplace and as the market begins to move along.

I would suspect that by the time the FCC rulemaking is completed that we will find at least five, probably six or seven, manufacturers moving very quickly toward the American marketplace.

Mr. HUTTO. All right. Mr. Adams, you indicated in your testimony that you have some concern about the definition of or the application of the term "alerting and locating equipment" as it's included in the bill. Would you expand on these concerns?

Mr. ADAMS. Yes, Mr. Chairman. We are concerned with the fact that technology has moved ahead rapidly, particularly since World War II, and we see in the maritime community in many cases a very ineffective use of the available technology for distress and safety purposes.

Comments were made earlier today in this hearing as to the possibility, for example, of a hand-held flare being a substitute as an alerting and locating device. We do have a feeling that you cannot key necessarily on the word "EPIRB," which is poorly defined.

Probably the term "alerting and locating" is good, but it can translate down into something like a hand-held flare or a pulsating flashlight.

We would feel that it should somehow in the records of the committee or in the legislation indicate that we are looking at advanced telecommunications-type alerting and locating equipment to avoid any possible translation down into items as mundane as perhaps a hand-held flare.

Mr. HUTTO. The gentleman from New Jersey, Mr. Hughes?

Mr. HUGHES. Thank you, Mr. Chairman. I really have no questions.

Mr. HUTTO. We want to thank you gentlemen for being here with us, and we will keep the record open. There may be some written questions that we will submit to you that we'd like to have answers to, so that we could have them in the record.

We appreciate your very good testimony. We will continue to work with the Coast Guard and with you in trying to do the right thing to save lives.

Thank you all for being with us.

With that, the Subcommittee on Coast Guard and Navigation stands adjourned.

[Whereupon, at 11:25 a.m., the subcommittee recessed, to reconvene at the call of the Chair.]

[The following was submitted for the record:]

I

100TH CONGRESS
2D SESSION

H. R. 4557

To direct the Secretary of the department in which the Coast Guard is operating to require alerting and locating equipment, including emergency position indicating radio beacons, on United States uninspected vessels, and for other purposes.

IN THE HOUSE OF REPRESENTATIVES

MAY 10, 1988

Mr. HUTTO (by request) (for himself, Mr. JONES of North Carolina, and Mr. DAVIS of Michigan) introduced the following bill; which was referred to the Committee on Merchant Marine and Fisheries

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A BILL

To direct the Secretary of the department in which the Coast Guard is operating to require alerting and locating equipment, including emergency position indicating radio beacons, on United States uninspected vessels, and for other purposes.

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That paragraph (e) of section 4102 of title 46, United States Code, is amended to read:

"(e) Each uninspected vessel operating on the high seas or on the Great Lakes shall be equipped with the number and type of alerting and locating equipment, including emergency position indicating radio beacons, as prescribed by regulation.".

SEC. 2. Section 4106 of title 46, United States Code, is amended by striking out "$100" and inserting instead "not more than $1,000".

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I

100TH CONGRESS
2D SESSION

H. R. 4558

To transfer administration of bridges and causeways over navigable waters from the Secretary of Transportation to the Secretary of the Army, and for other purposes.

IN THE HOUSE OF REPRESENTATIVES

MAY 10, 1988

Mr. HUTTO (by request) (for himself, Mr. JONES of North Carolina, Mr. DAVIS of Michigan, Mr. ANDERSON, Mr. HAMMERSCHMIDT, Mr. NOWAK, and Mr. STANGELAND) introduced the following bill; which was referred jointly to the Committees on Merchant Marine and Fisheries and Public Works and Transportation

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A BILL

To transfer administration of bridges and causeways over navigable waters from the Secretary of Transportation to the Secretary of the Army, and for other purposes.

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,

SECTION 1. SHORT TITLE.

This Act may be cited as the "Bridge Administration Transfer Act".

SEC. 2. AUTHORIZATION AND DELEGATION.

(a) AUTHORIZATION.—Administration of bridges and causeways over navigable waters is transferred from the Secretary of Transportation to the Secretary of the Army. The administration transferred includes all authorities for bridge and causeway approvals, drawbridge regulations, administration of bridge alterations, and all other related authority, functions, and duties concerning bridges and causeways over navigable waters otherwise exercised by the Secretary of Transportation except—

(1) administration of bridges and causeways in or over the Saint Lawrence Seaway; and

(2) authority to prescribe lights and other signals on bridges and causeways for the benefit of navigation.

For purposes of this Act, "navigable waters" means waters which are subject to the ebb and flow of the tide, or which are used or susceptible to use in their natural condition or by reasonable improvement as a means of transporting interstate or foreign commerce.

(b) TRANSFER DATES.—The transfer of authorities under this section shall take effect on October 1, 1989, or on such prior dates as the Secretary of the Army, in consultation with the Secretary of Transportation, prescribes and publishes in the Federal Register.

SEC. 3. PROCEDURE FOR TRANSFER.

(a) PERSONNEL, MONEY, PROPERTY, ETC.—(1) On or before October 1, 1989, and as determined by the Director of the Office of Management and Budget in consultation with the Secretary of Transportation and the Secretary of the Army, the Secretary of Transportation shall transfer to the Secretary of the Army, all—

(A) civilian employees and personnel positions,

(B) assets and liabilities, contracts, property, records, unexpended balances of appropriations, authorizations, allocations, funds collected; and

(C) other resources or assets which the Secretary of Transportation has before then employed, controlled, or used for the purposes of the administration transferred under section 2 of this Act.

(2) The transfer pursuant to this section shall be in accordance with section 3503 of title 5, United States Code, and shall not cause any such employee to be separated or reduced in grade or compensation for at least one year after the date on which each employee is transferred to the Secretary of the Army. Appropriations and funds shall be transferred and accounted for in accordance with section 202 of the Budget and Accounting Procedures Act of 1950 (31 U.S.C. 1531).

(b) REGULATIONS.—In implementation of the transfer, the Secretary of the Army is authorized to publish regulations relating to bridges and causeways. The effective dates of these regulations shall be the dates of transfer determined under section 2 of this Act. Existing regulations shall remain in effect until expressly rescinded.

(c) LEGAL RIGHTS AND DUTIES.—No approvals, notices, determinations, grants, contracts, permits or permit actions, regulatory actions, penalties or penalty actions, suits or claims against or by the United States or officers and agencies of the United States, or other legal rights or duties relating to bridges and causeways over navigable waters shall be affected by the transfer under section 2 of this Act, except that the Secretary of the Army or officers or agencies of the Secretary of the Army shall be substituted, as appropriate, for the Secretary of Transportation or officers or agencies of the Secretary of Transportation. This subsection does not prevent the modification, continuation, or discontinuation of any legal rights or duties by the Secretary of the Army under the same terms and conditions and to the same extent as would have been lawful by the Secretary of Transportation.

SEC. 4. CONFORMING AMENDMENTS.

(a) EFFECT OF AMENDMENTS.—The conforming amendments in this section shall not affect the authorities being transferred under this Act until such authorities are transferred under section 2 of this Act.

(b) AMENDMENTS TO THE RIVERS AND HARBORS APPROPRIATIONS ACT OF 1899.—The Act of March 3, 1899, otherwise known as the Rivers and Harbors Appropriations Act of 1899, is amended as follows:

(1) The text of section 9 of the Act (33 U.S.C. 401) is amended to read, in full, as follows:

"It shall not be lawful to construct or commence the construction of any bridge, causeway, dam, or dike over or in any port, roadstead, haven, harbor, canal, navigable river, or other navigable water of the United States until the consent of Congress to the building of such structures shall have been obtained and until the plans for the bridge, causeway, dam, or dike shall have been submitted to and approved by the Secretary of the Army. However, such structures may be built under authority of the legislature of a State across rivers and other waterways the navigable portions of which lie wholly within the limits of a single State, provided the location and plans thereof are submitted to and approved by the Secretary of the Army before construction is commenced. When plans for any bridge or other structure have been approved by the Secretary of the Army, it shall not be lawful to deviate from such plans either before or after completion of the structure unless modification of said plans has previously been submitted to and received the approval of the Secretary of the Army. In the case of a bridge or causeway in or over the Saint Lawrence Seaway, the authority in this section shall be exercised by the Secretary of Transportation instead of the Secretary of the Army. The approval required by this section does not apply to any bridge or causeway over waters that are not subject to the ebb and flow of the tide and that are not used and are not susceptable to use in their natural condition or by reasonable improvement as a means to transport interstate or foreign commerce.".

(2) The text of section 18 of the Act (3 U.S.C. 502) is amended to read, in full, as follows:

"(a) Whenever the Secretary of the Army shall have good reason to believe that any railroad or other bridge now constructed, or which may hereinafter be constructed, over any of the navigable waterways of the United States is an unreasonable obstruction to the free navigation of such waters on account of insufficient height, width or span, or otherwise, or where there is difficulty in passing the draw opening or the draw span of such bridge by rafts, steamboats, or other water craft, it shall be the duty of the Secretary of the Army, first giving the parties reasonable opportunity to be heard, to give notice to the persons or corporations owning or controlling such bridge so to alter the same as to render navigation through or under it reasonable free, easy, and unobstructed; and in giving such notice the Secretary shall specify the changes that are required to be made, and shall prescribe in each case a reasonable time in which to make them. If at the end of such time the alteration has not been made, the Secretary of the Army shall forthwith notify the United States Attorney for the district in which such bridge is situated, to the end that the criminal proceedings hereinafter mentioned may be taken. If the persons, corporation, or association owning or controlling any railroad or other bridge shall, after receiving notice to that effect, as hereinafter required, from the Secretary of the Army, and within the time prescribed by the Secretary willfully fail or refuse to remove the same or to comply with the lawful order of the Secretary of the Army in the premises, such persons, corporation, or association shall be deemed guilty of a misdemeanor, and on conviction thereof shall be punished by a fine not exceeding $5,000, and every month such persons, corporation, or association shall remain in default in respect to the removal or alteration of such bridge, shall be deemed a new offense, and subject such persons, corporation, or association so offending to the penalties above prescribed.

"(b) No owner or operator of any bridge, drawbridge, or causeway shall endanger, unreasonably obstruct, or make hazardous the free navigation of any navigable water of the United States by reason of the failure to keep the bridge, drawbridge, or causeway and any accessory works in proper repair.

"(c) Whoever violates any provision of this section, or any order issued under this section, shall be liable to a civil penalty of not more than $1,000. Each day a violation continues shall be deemed a separate offense. No penalty may be assessed under this subsection until the person charged is given notice and an opportunity for a hearing on the charge. The Secretary of the Army may assess and collect any civil penalty incurred under this subsection and in his discretion, may remit, mitigate, or compromise any penalty until the matter is referred to the Attorney General. If a person against whom a civil penalty is assessed under this subsection fails to pay that penalty, an action may be commenced in the district court of the United States for any district in which the violation occurs for such penalty.

"(d) In the case of a bridge or causeway in or over the Saint Lawrence Seaway, the authority in this section shall be exercised by the Secretary of Transportation instead of the Secretary of the Army.".

(c) AMENDMENTS TO THE BRIDGE ACT OF 1906.—The Act of March 23, 1906, otherwise known as the Bridge Act of 1906, is amended as follows:

(1) The text of the first section of the Act (33 U.S.C. 491) is amended to read, in full, as follows:

"When, after March 23, 1906, authority is granted by Congress to any persons to construct and maintain a bridge across or over any of the navigable waters of the United States, such bridge shall not be built or commenced until the plans and specifications for its construction, together with such drawings of the proposed construction and such map of the proposed location as may be required for a full understanding of the subject, have been submitted to the Secretary of the Army for the Secretary's approval, nor until the Secretary shall have approved such plans and specifications and the location of such bridge and accessory works; and when the plans for any bridge to be constructed under the provisions of this Act have been approved by the Secretary it shall not be lawful to deviate from such plans, either before or after completion of the structure, unless the modification of such plans has previously been submitted to and received the approval of the Secretary. In the case of a bridge over the Saint Lawrence Seaway, the authority in this section shall be exercised by the Secretary of Transportation instead of the Secretary of the Army. This section shall not apply to any bridge over waters which are not subject to the ebb and flow of the tide and which are not used and are not susceptible to use in their natural condition or by reasonable improvement as a means to transport interstate or foreign commerce.".

(2) The text of section 4 of the Act (33 U.S.C. 494) is amended to read, in full, as follows:

"No bridge erected or maintained under the provisions of this Act shall at any time unreasonably obstruct the free navigation of the waters over which it is constructed, and if any bridge erected in accordance with the provisions of this Act shall, in the opinion of the Secretary of the Army, at any time unreasonably obstruct such navigation, either on account of insufficient height, width of span, or otherwise, or if there be difficulty in passing the draw opening or the drawspan of such bridge by rafts, steamboats, or other watercraft, it shall be the duty of the Secretary of the Army, after giving the parties interested reasonable opportunity to be heard, to notify the persons owning or controlling such bridge to so alter the same as to render navigation through or under it reasonably free, easy, and unobstructed, stating in such notice the changes required to be made and prescribing in each case a reasonable time in which to make such changes, and if at the end of the time so specified the changes required have not been made, the persons owning or controlling such bridge shall be deemed guilty of a violation of this Act; and all such alterations shall be made and all such obstructions shall be removed at the expense of the persons owning or operating said bridge. In the case of a bridge over the Saint Lawrence Seaway, the above authority in this section shall be exercised by the Secretary of Transportation instead of the Secretary of the Army. The persons owning or operating any such bridge shall maintain, at their own expense, such lights and other signals thereon as the Secretary of Transportation shall prescribe. If the bridge shall be constructed with a draw, then the draw shall be opened promptly by the persons owning or operating such bridge upon reasonable signal for the passage of boats and other water craft.".

(3) The text of section 5 of the Act (33 U.S.C. 495) is amended to read, in full, as follows:

"(a) Any person who shall willfully fail or refuse to comply with the lawful order of the Secretary of the Army or the Secretary of Transportation made in accordance with provisions of this Act shall be deemed guilty of a misdemeanor and on a conviction thereof shall be punished in any court of competent jurisdiction by a fine not exceeding $5,000, and every month such persons shall remain in default shall be deemed a new offense and subject such persons to additional penalties therefor; and in addition to the penalties above described the Secretary of the Army (or the Secretary of Transportation, in the case of a bridge or causeway in or over the Saint Lawrence Seaway) may, upon refusal of the persons owning or controlling any such bridge and accessory works to comply with any lawful order issued by the Secretary in regard thereto, cause the removal of such bridge, and suit for such expense may be brought in the name of the United States against such persons, and recovery had for such expense in any court of competent jurisdiction, and the removal of any structures erected or maintained in violation of the provisions of this Act or the order or direction of the Secretary made in pursuance thereof may be enforced by injunction, mandamus, or other summary process, upon application to the district court in the district in which such structure may, in whole or part, exist, and proper proceedings to this end may be instituted under the direction of the Attorney General of the United States at the request of the Secretary; and in case of any litigation arising from any obstruction or alleged obstruction to navigation created by the construction of any bridge under this Act, the cause or question arising may be tried before the district court of the United States in any district which any portion of said obstruction or bridge touches.

"(b) Whoever violates any provision of this Act, or any order issued under this Act, shall be liable to a civil penalty of not more than $1,000. Each day a violation continues shall be deemed a separate offense. No penalty may be assessed under this subsection until the person charged is given notice and an opportunity for a hearing on the charge. The Secretary whose order is violated, or who is responsible for the administration of a provision of this Act which is violated, may assess and collect any civil penalty incurred under this subsection and, in the Secretary's discretion, may remit, mitigate, or compromise any penalty until the matter is referred to the Attorney General. If a person against whom a civil penalty is assessed under this subsection fails to pay that penalty, an action may be commenced in the district court of the United States for any district in which the violation occurs for such penalty.".

(d) AMENDMENT TO THE ACT OF AUGUST 1894.—The text of section 5 of the Act of August 18, 1894 (33 U.S.C. 499), is amended to read, in full, as follows:

"(a) It shall be the duty of all persons owning, operating, and tending drawbridges across the navigable rivers and other waters of the United States, whenever built, to open, or cause to be opened, the draws of such bridges under such rules and regulations as in the opinion of the Secretary of the Army the public interests require to govern the opening of drawbridges for the passage of vessels and other water crafts, and such rules and regulations, when so made and published, shall have the force of law. Every such person who shall willfully fail or refuse to open, or cause to be opened, the draw of any such bridge for the passage of a boat or boats, as provided in such regulations, shall be deemed guilty of a misdemeanor, and on conviction thereof shall be punished by a fine of not more than $2,000 nor less than $1,000, or by imprisonment (in the case of a natural person) for not exceeding one year, or by both such fine and imprisonment, in the discretion of the court: *Provided,* That the proper action to enforce the provisions of this subsection may be commenced before any magistrate, judge, or court of the United States, and such magistrate, judge, or court shall proceed in respect thereto as authorized by law in case of crimes against the United States: *Provided further,* That whenever, in the opinion of the Secretary of the Army, the public interests require it, the Secretary may make rules and regulations to govern the opening of drawbridges for the passage of vessels and other water crafts, and such rules and regulations, when so made and published, shall have the force of law, and any willful violation thereof shall be punished as hereinbefore provided: *Provided further,* That any regulations made in pursuance of this section may be enforced as provided in section 17 of the Act of March 3, 1899 (33 U.S.C. 413), the provisions whereof are made applicable to the said regulations.

"(b) No vessel owner or operator shall signal a drawbridge to open for any nonstructural vessel appurtenance which is not essential to navigation or which is easily lowered and no person shall unreasonably delay the opening of a draw after the signal required by rules or regulations under this section has been given. The Secretary of the Army shall issue rules and regulations to implement this subsection.

"(c) Whoever violates any rule or regulation issued under subsection (a) or (b), shall be liable to a civil penalty of not more than $1,000. No penalty may be assessed under this subsection until the person charged is given notice and an opportunity for a hearing on the charge. The Secretary of the Army may assess and collect any civil penalty incurred under this subsection and, in the Secretary's discretion, may remit, mitigate, or compromise any penalty until the matter is referred to the Attorney General. If a person against whom a civil penalty is assessed under this subsection fails to pay that penalty, an action may be commenced in the district court of the United States for any district in which the violation occurs for such penalty.

"(d) In the case of a bridge over the Saint Lawrence Seaway, the authority in this section shall be exercised by the Secretary of Transportation instead of the Secretary of the Army.".

(e) AMENDMENTS TO THE TRUMAN-HOBBS ACT.—The Act of June 21, 1940, otherwise known as the Truman-Hobbs Act, is amended as follows:

(1) The text of the first section of the Act (33 U.S.C. 511) is amended to read, in full, as follows:

"When used in this Act, unless the context indicates otherwise—

"(1) The term 'alteration' includes changes of any kind, reconstruction, or removal in whole or in part.

"(2) The term 'bridge' means a lawful bridge over navigable waters of the United States, including approaches, fenders, and appurtenances thereto, which is used and operated for the purpose of carrying railroad traffic or both railroad and highway traffic, or if a State, county, municipality, or other political subdivision is the owner or joint owner thereof, which is used and operated for the purpose of carrying highway traffic.

"(3) The term 'bridge owner' means any State, county, municipality, or other political subdivision, or any corporation, association, partnership, or individual owning, or jointly owning, any bridge, and, when any bridge shall be in the possession or under the control of any trustee, receiver, trustee in a case under title 11 of the United States Code, or lessee, such term shall include both the owner of the legal title and person or the entity in possession or control of such bridge.

"(4) The term 'Secretary' means the Secretary of the Army, except in the case of a bridge over the Saint Lawrence Seaway, in which case it means the Secretary of Transportation.

"(5) The term 'United States', when used in a geographical sense, includes the Territories and possessions of the United States.".

(2) The text of section 4 of the Act (33 U.S.C. 514) is amended to read, in full, as follows:

"After the service of an order under this Act, it shall be the duty of the bridge owner to prepare and submit to the

Secretary, within a reasonable time as prescribed by the Secretary, general plans and specifications to provide for the alteration of such bridge in accordance with such order, and for such additional alteration of such bridge as the bridge owner may desire to meet the necessities of railroad or highway traffic, or both. The Secretary may approve or reject such general plans and specifications, in whole or in part, and may require the submission of new or additional plans and specifications, but when the Secretary shall have approved general plans and specifications, they shall be final and binding upon all parties unless changes therein be afterwards approved by the Secretary and the bridge owner.".

(3) The text of section 7 of the Act (33 U.S.C. 517) is amended to read, in full, as follows:

"Following service of the order requiring alteration of the bridge, the Secretary may make partial payments as the work progresses to the extent that funds have been appropriated. The total payments out of Federal funds shall not exceed the proportionate share of the United States of the total cost of the project paid or incurred by the bridge owner, and if such total cost exceeds the cost guaranteed by the bridge owner, shall not exceed the proportionate share of the United States of such guaranteed cost, except that if the cost of the work exceeds the guaranteed cost by reason of emergencies, conditions beyond the control of the owner, or unforeseen or undetermined conditions, the Secretary may, after full review of all the circumstances, provide for additional payments by the United States to help defray such excess cost to the extent the Secretary deems it to be reasonable and proper, and shall certify such additional payments to the Secretary of the Treasury for payment. All payments made to any bridge owner herein provided for shall be made by the Secretary of the Treasury upon certifications of the Secretary.".

(4) The text of section 13 of the Act (33 U.S.C. 523) is amended to read, in full, as follows:

"If the owner of any bridge and the Secretary shall agree that in order to remove an obstruction to navigation, or for any other purpose, a relocation of such bridge or the construction of a new bridge upon a new location shall be preferable to an alteration of the existing bridge, such relocation or new construction may be carried out at such new site and upon such terms as may be acceptable to the bridge owner and the Secretary, and the cost of such relocation or new construction, including also any expense of changes in and additions to rights-of-way, stations, tracks, spurs, sidings, switches, signals, and other railroad facilities and property, and relocation of shippers required for railroad connection with the bridge at the new site, shall be apportioned as between the bridge owner and the United States in the manner which is provided for in section 6 of this Act (33 U.S.C. 516) in the case of an alteration and the share of the United States paid from the appropriation authorized in section 8 of this Act (33 U.S.C. 518): *Provided,* That nothing in this section shall be construed as requiring the United States to pay any part of the expense of building any bridge across a navigable stream which the Secretary shall not find to be, in fact, a relocation of the existing bridge.".

(f) AMENDMENTS TO THE GENERAL BRIDGE ACT OF 1946.—The Act of August 12, 1946, otherwise known as the General Bridge Act of 1946, is amended as follows:

(1) The Text of section 502 of the Act (33 U.S.C. 525) is amended to read, in full, as follows:

"(a) CONSENT OF CONGRESS.—The consent of Congress is hereby granted for the construction, maintenance, and operation of bridges and approaches thereto over the navigable waters of the United States, in accordance with the provisions of this title.

"(b) APPROVAL OF PLANS.—The location and plans for such bridges shall be approved by the Secretary of the Army before construction is commenced, and, in approving the location and plans of any bridge, the Secretary may impose any specific conditions relating to the maintenance and operation of the structure which the Secretary may deem necessary in the interest of public navigation, and the conditions so imposed shall have the force of law. In the case of a bridge over the Saint Lawrence Seaway, the authority in this subsection shall be exercised by the Secretary of Transportation instead of the Secretary of the Army. This subsection shall not apply to any bridge over waters which are not subject to the ebb and flow of the tide and which are not used and are not susceptible to use in their natural condition or by reasonable improvement as a means to transport interstate or foreign commerce.

"(c) PRIVATE HIGHWAY TOLL BRIDGES.—Notwithstanding the provisions of subsections (a) and (b) of this section, it shall be unlawful to construct or commence the construction of any privately owned highway toll bridge until the location and plans thereof shall also have been submitted to and approved by the highway department or departments of the State or States in which the bridge and its approaches are situated: and where such bridge shall be between two or more States and the highway departments thereof shall be unable to agree upon the location and plans therefor, or if they, or either of them, shall fail or refuse to act upon the location and plans submitted, such location and plans then shall be submitted to the Secretary of the Army and, if approved by the Secretary of the Army, approval by the highway departments shall not be required.".

(2) The text of section 510 of the Act (33 U.S.C. 533) is amended to read, in full, as follows:

"(a) Any person who willfully fails or refuses to comply with any lawful order of the Secretary of the Army or the Secretary of Transportation issued under the provisions of this title, or who willfully fails to comply with any specific conditions imposed by the Secretary of the Army or the Secretary of Transportation relating to the maintenance and operation of bridges, or who willfully refuses to produce books, papers, or documents in obedience to a subpoena or other lawful requirement under this title, or who otherwise willfully violates any provision of this title, shall, upon conviction thereof, be punished by a fine not to exceed $5,000 or by imprisonment for not more than one year, or by both such fine and imprisonment.

"(b) Whoever violates any provision of this Act, or any order issued under this Act, shall be liable to a civil penalty of not more than $1,000. Each day a violation continues shall be deemed a separate offense. No penalty may be assessed under this subsection until the person charged is given notice and an opportunity for a hearing on the charge. The Secretary responsible for the provision or order violated may assess and collect the civil penalty incurred under this subsection and, in the Secretary's discretion, may remit, mitigate, or compromise the penalty until the matter is referred to the Attorney General. If a person against whom a civil penalty is assessed under this subsection fails to pay that penalty, an action may be commenced in the district court of the United States for any district in which the violation occurs for such penalty.".

(g) AMENDMENTS TO THE INTERNATIONAL BRIDGE ACT OF 1972.—Public Law 92-434 of September 26, 1972, otherwise known as the International Bridge Act of 1972, is amended as follows:

(1) The term of section 2 of the Act (33 U.S.C. 535) is amended to read, in full, as follows:

"The consent of Congress is hereby granted to the construction, maintenance, and operation of any bridge and approaches thereto, which will connect the United States with any foreign country (hereinafter in this Act referred to as an 'international bridge') and to the collection of tolls for its use, so far as the United States has jurisdiction. Such consent shall be subject to (1) the approval of the proper authorities in the foreign country concerned; (2) the provisions of the Act entitled 'An Act to regulate the construction of bridges over navigable waters', approved March 23, 1906 (33 U.S.C. 491-498), except section 6 (33 U.S.C. 496), whether or not such bridge is to be built across or over any of the navigable waters of the United States; and (3) the provisions of this subchapter. In the case of a bridge over the Saint Lawrence

Seaway, and in the case of a bridge which would not otherwise be subject to the Act of March 23, 1906, the authority of the Secretary of the Army in this section shall be exercised by the Secretary of Transportation instead of the Secretary of the Army.".

(2) The term of section 5 of the Act (33 U.S.C. 535c) is amended to read, in full, as follows:

"The approval of the Secretary of the Army or the Secretary of Transportation as required by the first section of the Act of March 23, 1906 (33 U.S.C. 491) and section 2 of this Act (33 U.S.C. 535) shall be given only subsequent to the President's approval, as provided for in section 4 of this Act, and shall be null and void unless the construction of the bridge is commenced within two years and completed within five years from the date of the Secretary's approval: *Provided, however,* That the Secretary concerned, for good cause shown, may extend for a reasonable time either or both of the time limits herein provided.".

(3) The text of section 11 of the Act (33 U.S.C. 535h) is amended to read, in full, as follows:

"The Secretary of the Army and the Secretary of Transportation shall each make an annual report of approvals granted under sections 2 and 5 of this Act (33 U.S.C. 535 and 535c), which may be consolidated with other annual reports required by law.".

(h) Amendment to Title 14, United States Code.—Section 662 of title 14, United States Code, is amended by striking clause (3), by redesignating clause "(4)" as clause "(3)", and by changing "(1)–(3)" at the end of the redesignated clause (3) to read "(1)–(2)".

SEC. 5. COMPILATION OF LAWS

The Congress directs the Secretary of the Army to prepare a compilation of Federal laws relating to the administration and regulation of bridges, causeways, dams, dikes, and other structures in, on, or over navigable waters of the United States and to submit such compilation to the Congress with such recommendation as to consolidation, revision, amendment, or simplification of said laws as in the Secretary's judgment would be most advantageous to the public interest.

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STATEMENT

OF REAR ADMIRAL ROBERT T. NELSON

BEFORE THE HOUSE COMMITTEE ON
MERCHANT MARINE AND FISHERIES
SUBCOMMITTEE ON COAST GUARD AND NAVIGATION
3 AUGUST 1988

MR. CHAIRMAN, I AM PLEASED TO HAVE THE OPPORTUNITY TO MEET THIS MORNING WITH YOU AND THE OTHER DISTINGUISHED MEMBERS ON THIS SUBCOMMITTEE TO DISCUSS THE TRANSFER OF BRIDGE ADMINISTRATION TO THE U. S. ARMY CORPS OF ENGINEERS. I HAVE A BRIEF OPENING STATEMENT THAT ADDRESSES THE REASONS FOR THE PROPOSED TRANSFER. AFTERWARDS, I WILL BE PLEASED TO RESPOND TO ANY QUESTIONS YOU MIGHT HAVE.

THE DEPARTMENT OF TRANSPORTATION ACT, PUBLIC LAW 89-670, TRANSFERRED SEVERAL FUNCTIONS OF THE ARMY CORPS OF ENGINEERS CONTAINED IN STATUTES RELATING TO BRIDGES AND CAUSEWAYS OVER NAVIGABLE WATERS TO THE NEW DEPARTMENT OF TRANSPORTATION (DOT). THE CORPS RETAINED RESPONSIBILITIES FOR REGULATING THE CONSTRUCTION OF ALL OTHER STRUCTURES IN OR OVER NAVIGABLE WATERS AS WELL AS REGULATING DREDGING AND FILLING IN SAID WATERS. THE RATIONALE FOR THIS DIVISION OF RESPONSIBILITY WAS TO LOCATE ALL TRANSPORTATION RELATED FUNCTIONS WITHIN THE NEW DEPARTMENT OF TRANSPORTATION IN THAT BRIDGES AND CAUSEWAYS WERE CONSIDERED TO SERVE LAND TRANSPORTATION MODES AS WELL AS IMPINGING ON MARINE TRANSPORTATION.

THIS DIVISION OF RESPONSIBILITY WAS INITIALLY QUITE EFFECTIVE. SUBSEQUENT LEGISLATION SUCH AS THE CLEAN WATER ACT (CWA) AND THE NATIONAL ENVIRONMENTAL POLICY ACT (NEPA) HAVE CREATED AN OVERLAP OF RESPONSIBILITY BETWEEN THE TWO AGENCIES IN THAT BRIDGE AND CAUSEWAY CONSTRUCTION INVARIABLY INVOLVE PERMITTING ACTION BY BOTH AGENCIES BEFORE CONSTRUCTION CAN BEGIN. THIS DUAL RESPONSIBILITY CREATES A PROCESS WHICH IS UNNECESSARILY CUMBERSOME FOR THE APPLICANT TO OBTAIN A PERMIT AND IS ADMINISTRATIVELY INEFFICIENT FOR THE GOVERNMENT.

MANY PROJECTS INVOLVE NOT ONLY CONSTRUCTION OF THE BRIDGE AND APPROACHES BUT ALSO FILL IN WETLANDS, DREDGING FOR CONSTRUCTION, AND POSSIBLE CHANNEL REALIGNMENT. DETERMINATIONS OF WHICH AGENCY SHOULD BE THE LEAD FEDERAL AGENCY FOR PURPOSES OF NEPA OFTEN RESULT IN LENGTHY DELAYS EVEN BEFORE NEPA EVALUATIONS ARE BEGUN AND REQUIRE RESOLUTION BY THE COUNCIL ON ENVIRONMENTAL QUALITY (CEQ).

SAFETY OF NAVIGATION CONSIDERATIONS ARE WOVEN THROUGH THE THREE ELEMENTS OF THE BRIDGE ADMINISTRATION PROGRAM; APPROVAL OF LOCATION AND PLANS FOR BRIDGES AND CAUSEWAYS, REGULATING DRAWBRIDGES, AND ALTERATION OF UNREASONABLY OBSTRUCTIVE BRIDGES. THE BRIDGE STATUTES THEREFORE PROTECT THE NATIONS WATERWAYS AND PREVENT THEIR IMPAIRMENT AS NAVIGABLE WATERWAYS. THE CORPS OF ENGINEERS PLAYS A SIGNIFICANT ROLE IN NAVIGATION SAFETY AND MAINTAINING FREE NAVIGATION ON THESE WATERWAYS THROUGH ITS WATERWAY IMPROVEMENT PROJECTS AND REGULATION OF OTHER WATERWAY CONSTRUCTION PROJECTS.

TRANSFERRING ADMINISTRATION OF THE BRIDGE STATUTES BACK TO THE CORPS WILL PLACE THE ADMINISTRATION AND REGULATION OF ALL CONSTRUCTION RELATED PROJECTS IN THE NAVIGABLE WATERS OF THE UNITED STATES IN A SINGLE AGENCY. DUPLICATION OF EFFORT IN ISSUING PERMITS AND RESPONSIBILITY FOR ENVIRONMENTAL DOCUMENTATION WILL BE ELIMINATED. APPLICANTS WILL NEED ONLY APPLY TO ONE AGENCY FOR PERMITTING FOR CONSTRUCTION AND OPERATION OF ALL PROJECTS IN THE NAVIGABLE WATERS OF THE UNITED STATES. THE AUTHORITY PERTAINING TO THE CONSTRUCTION AND REGULATION OF BRIDGES AND CAUSEWAYS ACROSS THE NAVIGABLE WATERS OF THE UNITED STATES CONTAINED IN SECTION 9 OF THE RIVERS AND HARBORS APPROPRIATION ACT OF MARCH 3, 1899; THE BRIDGE ACT OF MARCH 23, 1906; THE ACT OF AUGUST 18, 1894; THE TRUMAN-HOBBS ACT OF JUNE 21, 1940; THE GENERAL BRIDGE ACT OF AUGUST 12, 1946; AND THE INTERNATIONAL BRIDGE ACT OF SEPTEMBER 26, 1972; EXCEPT FOR BRIDGES ACROSS THE ST. LAWRENCE SEAWAY AND INTERNATIONAL BRIDGES OVER NONNAVIGABLE WATERS WILL BE TRANSFERRED.

THIS REUNIFICATION OF ALL WATERWAY CONSTRUCTION PROJECTS WILL IMPROVE THE OVERALL EFFICIENCY OF THE FEDERAL GOVERNMENT AND THE GOVERNMENT'S RESPONSIVENESS TO THE PUBLIC.

DEPARTMENT OF THE ARMY
OFFICE OF THE ASSISTANT SECRETARY OF THE ARMY
(CIVIL WORKS)

COMPLETE STATEMENT
OF
JOHN S. DOYLE, JR.,
PRINCIPAL DEPUTY ASSISTANT SECRETARY OF THE ARMY (CIVIL WORKS)
BEFORE THE
SUBCOMMITTEE ON COAST GUARD AND NAVIGATION
COMMITTEE ON MERCHANT MARINE AND FISHERIES
U.S. HOUSE OF REPRESENTATIVES

Mr. Chairman and Members of the Subcommittee, I am John S. Doyle, Jr., Principal Deputy Assistant Secretary of the Army for Civil Works. I am accompanied today by Mr. David Barrows, my Assistant for Regulatory Programs, and Mr. Bernie Goode, Chief of the Regulatory Branch, Headquarters U.S. Army Corps of Engineers.

I am pleased to be here this morning to discuss the Army's position on the transfer of the bridge administration program from the United States Coast Guard to the Army Corps of Engineers.

Mr. Chairman, in your letter of invitation you asked that we provide comments regarding the administrative transfer of the bridge administration program. Before I address this I would like to provide a brief background of the proposal.

The Department of Transportation Act of 1966 transferred several functions of the Corps of Engineers relating to bridges and causeways to the Coast Guard. Responsibility for regulating the construction of all other structures in or over navigable waters and for dredging and filling in those waters remained with the Corps. The rationale for this division of responsibility was to locate all transportation related functions within the new Department of Transportation (DOT). The Coast Guard has carried out these functions within DOT. This functional division of responsibility between the Corps and Coast Guard was initially quite effective. During the intervening years, legislation such as the Clean Water Act and the National Environmental Policy Act (NEPA) has created an overlap of responsibility between the two agencies in that bridge and causeway construction now invariably involves the permitting authorities of both agencies. As a result, this division of responsibility has evolved into a process which appears to be unnecessarily cumbersome for the applicant and administratively inefficient for the Government.

The bridge administration program consists of three interrelated functions:

1. Approval of location and plans of bridges and causeways.
2. Regulation of the operation of drawbridges.
3. Alteration of bridges determined to be unreasonable obstructions to navigation.

Bridge lighting would remain with the Coast Guard since it currently has the responsibility for aids to navigation including lighting for navigation safety purposes of all structures now permitted by the Corps.

Reuniting the regulation of all waterway construction projects under one agency will improve the overall efficiency of Government and the Government's responsiveness to the public. The organizational structure of the Corps and its decentralization of authority will result in all permitting approval being managed at the lowest practicable level within the Federal Government. Applicants will apply to one agency for most of the permits required for the construction and operation of projects in or over the navigable waters. Duplication of effort between the Corps and the Coast Guard in issuing various permits and preparing environmental documentation for the same projects will be eliminated. The confusion over which agency should be the lead Federal agency for the purposes of NEPA would be eliminated.

In late October 1986, the Department of Transportation proposed to the Department of the Army that all bridge and causeway functions be transferred from the Coast Guard back to the Corps. A joint Corps/Coast Guard working group was formed to study the proposed transfer. Based on this working group's report, we agreed to accept the program, provided manpower and fiscal resources are transferred with it.

Now let me turn to a discussion of the administrative impacts of the transfer. The impacts are divided into five categories: Workload, Budget, Personnel, Regulations, and Records and Files.

WORKLOAD

Workload can be subdivided into three functions: bridge permits, drawbridge regulation and bridge alterations.

1. Bridge Permits. The Corps issues or denies approximately 11,000 permits out of the 14,000 applications it receives each year. The transfer of the bridge administration program will only add about 110 bridge and causeways permits per year.

However, most bridge permits involve larger projects requiring more work than the average Corps permit application. Bridges associated with Federal aid highway projects will continue to have any required Environmental Impact Statements (EIS) prepared by DOT. The Corps expects the transfer to result in no more than one additional EIS per year. The Corps presently prepares 15 - 25 EISs annually. The Coast Guard's procedures for issuing bridge permits is similar to the Corps' procedures. Bridges can be easily integrated into the Corps' permit program since from a practical standpoint they will be just one more structure of a long list of structures already within the Corps regulatory purview.

2. Drawbridge Regulation. There are approximately 50 amendments to drawbridge regulations issued each year. In addition there are numerous complaints that must be handled concerning drawbridge or vessel operation. This would be a new function for the Corps but, given our experience with lock and dam operations, we are confident that we can handle it with a minimum transition period.

3. Bridge Alterations. The Corps and the Coast Guard have collectively ordered 39 Truman-Hobbs bridge alterations since 1946. There are presently two Truman-Hobbs bridge alterations in progress. Generally there are one or two Truman-Hobbs alterations in progress at any given time. In addition there are 20 to 30 "obstructive bridge complaints," per year that must be investigated. This is also a new function to the Corps. However, the Corps has considerable experience in construction contract administration. Therefore, we are confident of the Corps ability to assume this function.

The Coast Guard estimates that of the bridge administration program the drawbridge and the Truman-Hobbs programs each represent about 5% of its workload. The bridge permit program represents the remaining 90% of the workload. The Corps can merge these programs administratively into its existing organization with little difficulty. However, I must emphasize that the Corps must have the manpower and fiscal resources from the Coast Guard in order to administer these programs.

BUDGET

The following is a summary of program funding requirements in 1987 dollars as estimated by the Coast Guard and is based on a 1 October 1987 transfer:

1)	Personnel costs:	$2,327,900 (Hired labor only)
2)	Change of Station costs:	$ 611,000
3)	Alteration of Bridges (FY88)	$23,283,000 or current balance

Funds for personnel costs and alteration of bridges will be transferred to the Corps. The funds for the alteration of bridges represents the government's share of the costs for altering two bridges approved by Congress and government expenditures for engineering studies. These funds vary depending on the number of bridges authorized for alteration. Change of station costs are an estimate of the costs for the Coast Guard personnel to move to new work locations. Depending on how many transfers are involved, the costs can vary from $300,000 to $1.5 million. These costs will be funded by the Coast Guard and do not involve a transfer of funds. Any severance pay to personnel unwilling to transfer or relocate will be borne by the Coast Guard.

The transfer of the bridge administration program to the Corps will involve costs associated with moving personnel and files. Preliminary 1987 estimates to support this transfer are based on actual operating costs of the program.

There will be some miscellaneous minor costs to the Corps not addressed above for such things as issuing regulations and personnel paperwork. However, this can be done with existing personnel and at minimal expense to the Government.

The Corps estimate of approximately $2.3 million for personnel costs in 1987 dollars is essentially the same as the Coast Guard's. The Corps and Coast Guard overhead costs will basically not be affected by the transfer. However, because of the Corps accounting method, an additional $1.7 million for overhead costs would be charged to the regulatory budget. This will theoretically reduce Corps overhead costs in other program budgets. Therefore, even though the Coast Guard would transfer $2.3 million dollars and the Corps and Coast Guard overhead costs will not change, the Corps regulatory budget will increase by $4 million in order to meet payroll costs for the transferred spaces. These figures will be updated prior to the budgeting for the transfer. The Corps will continue to examine the program to identify efficiencies that may accrue from the consolidation and thereby decrease funding requirements stated above.

PERSONNEL

Due to the policy of the Coast Guard that most bridge decisions are made at the headquarters level, the Coast Guard has a larger headquarters staff (15 FTE-full time equivalent) than would be necessary under the Corps decentralized structure. Seven of the Coast Guard headquarters FTEs would be offered a transfer to Corps headquarters. The remaining eight headquarters FTEs and the 40 FTE field positions would be redistributed among the Corps districts. The Corps will examine the need to transfer several currently vacant FTE positions.

The actual distribution of Coast Guard personnel transferring to the Corps districts will not be available until personnel actions are finalized. The Coast Guard and the Corps have prepared a schedule which would allow all personnel to be transferred within 120 days of the implementation of the legislation. However, a few employees may remain with the Coast Guard until pending actions are completed and transferred. The Corps has prepared a list which tentatively assigns FTE's to Corps districts. In each district the personnel will be assigned to the regulatory office.

We fully intend to offer all Coast Guard personnel an opportunity to transfer to the Corps. Changes in duty station will be kept to the minimum, but many changes will be required due to organizational differences between the Coast Guard and the Corps. The employees will be guaranteed a retention of their grade and pay for 1 year. There will be an attempt to place employees in districts where their grade can be retained on a permanent basis. Although there is no guarantee, we believe that it is not likely any grades will be lowered after the 1-year period.

Integrating Coast Guard personnel into the Corps will require some training during the first year, but can be accomplished using the existing Corps training program. It will also be necessary to train Corps employees on the transferred bridge functions. This will also be done within the first year by special regional workshops.

One concern that we and the Coast Guard have had since we began our discussions was the morale of the existing Coast Guard personnel. The longer the future is uncertain regarding program transfer, the lower the morale becomes. While I understand that the requirements of the legislative process take time, I will offer the support of my staff to assist in any way to expedite a decision, whatever it may be.

REGULATIONS

The Coast Guard has proposed changes and is finalizing its bridge regulations. This effort has been put on hold pending the outcome of this initiative.

If the program is transferred, the Coast Guard would eventually rescind its regulations as the Corps issues new regulations. The Coast Guard would not rescind its regulations until the transfer has been completed. The Corps will publish interim regulations implementing the bridge administration program within 30 days of the date of the implementing legislation. Upon publication of these regulations the Corps will begin accepting new applications for bridge permits and requests for drawbridge regulation changes. The Coast Guard will normally complete permit applications where a public notice has been issued. All other pending applications will be transferred to the Corps for completion. (However, in some districts the Corps and the Coast Guard may agree that the Coast Guard should continue to process some applications depending on personnel transfer dates.) The Truman-Hobbs function will be transferred to the Corps when the Coast Guard personnel currently assigned to the program are transferred.

Initially the Corps plans to integrate bridges and causeways within its existing permit regulations and adopt the existing Coast Guard procedures for drawbridge regulations and Truman-Hobbs alterations. After the program has been transferred and the Corps has gained some experience, the Corps will review these procedures and the Coast Guard proposed changes to see if any changes should be proposed.

RECORDS AND FILES

The Corps and the Coast Guard have developed a plan for transferring all records and files in a manner to have the minimum impact on the regulated public. Briefly, within 2 weeks of the date of the implementing legislation the Corps and Coast Guard districts will identify the geographic scope of each Corps district within each Coast Guard district. Thereafter, within the next 60 days, all inactive files and all active files for cases where the required public notice has not been issued will be transferred to the appropriate Corps district. All active files for cases where the required public notice has been issued will be processed to a conclusion by the Coast Guard and then transferred to the Corps. Sufficient program staff will remain with the Coast Guard to complete such cases. However, cases which the Coast Guard believes will take longer than 1 year will be transferred to the Corps as soon as practicable. Furthermore, all cases will be transferred to the Corps within 1 year of the legislation.

Mr. Chairman, in closing let me state again. We agree with the Department of Transportation that the transfer makes sense administratively and is in the best interest of the nation. If the program is transferred, we will implement it fully and fairly to the best of our ability.

This concludes my testimony. I will be pleased to respond to any questions you have.

TESTIMONY BEFORE
THE
HOUSE SUBCOMMITTEE ON
COAST GUARD AND NAVIGATION
REGARDING
H.R. 4558
TO TRANSFER ADMINISTRATION OF BRIDGES AND CAUSEWAYS OVER NAVIGABLE WATERS FROM THE SECRETARY OF TRANSPORTATION TO THE SECRETARY OF ARMY

WEDNESDAY, AUGUST 3, 1988

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MY NAME IS CHARLES LEHMAN. I AM VICE PRESIDENT OF AMERICAN COMMERCIAL BARGE LINE COMPANY LOCATED IN JEFFERSONVILLE, INDIANA. MY COMPANY IS IN THE INLAND WATERWAY TRANSPORTATION SERVICE BUSINESS AND IS A PART OF THE CSX CORPORATION. ACBL OPERATES ITS VESSELS THROUGHOUT THE MID CONTINENT RIVER AND CANAL SYSTEM OF OUR COUNTRY. I APPEAR TODAY TO REPRESENT THE VIEWS OF THE AMERICAN WATERWAYS OPERATORS (AWO), THE NATIONAL TRADE ASSOCIATION OF INLAND AND COASTAL BARGE AND TOWING COMPANIES.

WE APPRECIATE THE OPPORTUNITY TO APPEAR BEFORE THIS COMMITTEE TODAY REGARDING LEGISLATION TO TRANSFER FEDERAL BRIDGE RESPONSIBILITY FUNCTIONS. THEY NOW REST UNDER THE JURISDICTION OF THE U.S. COAST GUARD. THIS LEGISLATION, HR 4558, WOULD RETURN THE AUTHORITY FOR THE ADMINISTRATION AND COMPLIANCE WITH OPERATING REGULATIONS TO THE SECRETARY OF THE ARMY.

AWO MEMBERS OPERATE THEIR VESSELS ON THE INLAND WATERWAYS SYSTEMS OF THE EAST, WEST, AND GULF COASTS. TOWBOATS, TUGBOATS, AND BARGES TRAVERSE ALL OF THE 25,000 MILES OF NAVIGABLE RIVERS AND CANALS WHICH MAKE UP THIS IMPORTANT COMPONENT OF OUR DOMESTIC TRANSPORTATION NETWORK. WHILE SERVING CUSTOMERS WHO SHIP THEIR PRODUCTS IN BARGING EQUIPMENT, OUR VESSELS NAVIGATE UNDER OR THROUGH LITERALLY HUNDREDS OF BRIDGES, SOME LIFT TYPE, SOME SWING BRIDGES, AS WELL AS MANY HIGH LEVEL FIXED SPANS.

THE MEMBERS OF THE AWO HAVE WORKED CLOSELY WITH THE COAST GUARD REGARDING BRIDGE PROBLEMS AND THE ADMINISTRATION OF THOSE MATTERS WHICH AFFECT NAVIGATION. THEREFORE, ANY CHANGE WHICH MIGHT OCCUR IN GOVERNMENTAL OBLIGATIONS REGARDING EXISTING PROGRAMS OR INTERPRETATION AND CONSISTENCY OF REGULATION ENFORCEMENT COULD SEVERELY IMPACT OUR MEMBER'S OPERATIONS. ALTHOUGH THE AWO DOES NOT OPPOSE THE TRANSFER OF THE BRIDGE AUTHORITY IF IT WILL RESULT IN COST SAVINGS AND EFFICIENCIES IN GOVERNMENT, WE WANT TO ENSURE THAT THE TRANSFER DOES NOT CAUSE DISRUPTIONS IN PROGRAMS, POLICIES, AND PROCEDURES WHICH MIGHT RESULT IN INEFFICIENCIES FOR OUR VESSELS AND BOAT PERSONNEL.

THE COAST GUARD ASSUMED THE BRIDGE ADMINISTRATION REGULATORY PROGRAM FROM THE SECRETARY OF ARMY (ADMINISTERED BY THE U.S. CORPS OF ENGINEERS) WHEN THE DEPARTMENT OF TRANSPORTATION CAME INTO EXISTENCE AND THE COAST GUARD BECAME A PART OF D.O.T. IT APPARENTLY WAS BELIEVED AT THE TIME THAT THIS ASSUMPTION OF DUTIES BY THE COAST GUARD WOULD MAKE THE PROGRAM MORE EFFICIENT. NOW, THE ADMINISTRATION SEEKS TO TRANSFER IT BACK TO THE DEPARTMENT OF THE ARMY UNDER GUISE OF GREATER EFFICIENCY AND COST SAVINGS TO THE GOVERNMENT. OUR COMMENTS TODAY QUESTION WHETHER THESE OBJECTIVES WILL IN REALITY BE ACHIEVED.

CURRENTLY THE BRIDGE ADMINISTRATION RESPONSIBILITIES OF THE COAST GUARD ARE CENTRALIZED IN EACH COAST GUARD DISTRICT OFFICE. AWO MEMBERS COME IN CONTACT WITH ELEVEN OF THESE DISTRICTS AS WELL AS COAST GUARD HEADQUARTERS.

IT IS CONTEMPLATED THAT THE 55 PEOPLE NOW IN THE COAST GUARD BRIDGE PROGRAM WILL BE SCATTERED AMONGST 31 DIFFERENT CORPS OF ENGINEERS LOCATIONS (LETTER FROM THE COMMANDANT, G-NBR/14, DATED 1 DECEMBER 1987). WE BELIEVE THIS TRANSFER COULD HAVE THE POTENTIAL FOR SERIOUS DISRUPTIONS IN ECONOMIC AND SAFETY CONSIDERATIONS. AT THE VERY LEAST THE COMMUNICATIONS NETWORK BETWEEN INDUSTRY AND THE COAST GUARD WHICH NOW EFFICIENTLY ADDRESSES BRIDGE PROBLEMS WILL BE BROKEN. WE HAVE NO KNOWLEDGE THAT ANYTHING HAS BEEN PROPOSED TO TAKE ITS PLACE. NO MEETINGS OR DISCUSSIONS HAVE BEEN HELD WITH INDUSTRY TO EFFECT A SMOOTH TRANSITION BETWEEN AGENCIES AND THE PRIVATE SECTOR FOR COOPERATION IN INSTITUTING THESE CHANGES AND THEIR IMPACT ON SAFETY AND ECONOMIC CONDITIONS.

FOR EXAMPLE,REPORTING REQUIREMENTS IN THE SECOND COAST GUARD DISTRICT REQUIRE AWO MEMBERS TO CONTACT ONLY ONE OFFICE FOR ANY BRIDGE INQUIRIES. THERE ARE ELEVEN CORPS OF ENGINEERS DISTRICT OFFICES THAT COMPRISE AREAS OF THE COAST GUARD'S SECOND DISTRICT. EACH CONCEIVABLY COULD HAVE ITS OWN INDIVIDUAL REPORTING MECHANISM WITH DIFFERENT PHONE NUMBERS AND DIFFERENT PERSONNEL CONTACTS. NAVIGATORS MUST CONTINUE TO REPORT BRIDGE LIGHT OUTAGES

TO THE COAST GUARD AND THEN REPORT OTHER BRIDGE OPERATIONAL PROBLEMS TO THE CORPS' OFFICE THAT MIGHT BE RESPONSIBLE FOR A PARTICULAR SECTION OF THE WATERWAY.

BRIDGE OUTAGES, FAILURE TO EFFECT REPAIRS TO PROTECTION WORKS, INABILITY OR UNTIMELY RESPONSES TO REQUESTS FOR OPENING DRAW BRIDGES ALWAYS PRODUCE DELAYS. DELAYS TRANSLATE INTO ADDED COSTS FOR VESSEL OPERATORS WHICH ARE, OF COURSE, ULTIMATELY PASSED ON TO CONSUMERS. MANY TIMES BRIDGE OPERATIONAL NEGLECT OR FAILURES HAVE RESULTED IN UNSAFE NAVIGATING CONDITIONS. AWO MEMBERS NEED ASSURANCE THAT THIS FUNCTION TRANSFER WILL NOT RESULT IN INCREASED COSTS AND ADDITIONAL SAFETY PROBLEMS DUE TO LACK OF ENFORCEMENT POLICY REQUIRING BRIDGE OWNERS TO ABIDE BY THEIR RESPONSIBILITIES UNDER THE LAW AND PERMIT PROVISIONS. WE QUESTION WHETHER THE ENFORCEMENT CAPABILITY FOR VERIFICATION, INVESTIGATION, AND PENALTY ASSESSMENT FOR VIOLATORS WILL BE POSSIBLE BY THE DISPERSEMENT OF BRIDGE PERSONNEL TO A MULTITUDE OF NEW OFFICES.

THE PROCEDURE FOR REPORTING INCIDENTS WORKS SOMEWHAT DIFFERENTLY IN THE VARIOUS COAST GUARD DISTRICTS. GENERALLY, HOWEVER, IF A MASTER OR OPERATOR OF A TUG OR TOWBOAT ENCOUNTERS

A PROBLEM WITH A BRIDGE, HE CAN REPORT THE PROBLEM OVER HIS VESSEL'S RADIO DIRECT TO THE 24 HOUR MANNED COAST GUARD SAFETY BROADCAST STATION. IF THE PROBLEM IS SERIOUS, SUCH AS A LONG TIME OUTAGE OR AN ACCIDENT, THE COAST GUARD WILL BROADCAST A LOCAL NOTICE TO MARINERS ALERTING ALL NAVIGATORS TO THE PROBLEM. IF THERE IS A VIOLATION REPORTED BY A VESSEL OPERATOR, SUCH AS FAILURE TO OPEN A DRAW BRIDGE, NAVIGATION LIGHTS EXTINGUISHED, OR BRIDGE FENDER WORKS IN A STATE OF DISREPAIR, THE COAST GUARD WILL VERIFY THE REPORT, BROADCAST THE PERTINENT SAFETY INFORMATION, INVESTIGATE AND PENALIZE THE BRIDGE OPERATOR AS NECESSARY TO ASSURE NAVIGATION SAFETY.

THE COAST GUARD IS WATER ORIENTATED WITH POLLUTION AND HARBOR SAFETY PATROLS, AIDS TO NAVIGATION DUTIES AND OTHER MISSIONS DIRECTLY INVOLVED ON NAVIGABLE WATERWAYS. COAST GUARD PERSONNEL WILL BE TRANSITING THE SAME BRIDGES AS DO VESSELS OF THE MARITIME INDUSTRY. THEY ALSO WILL BE OBSERVING THE SAME PROBLEMS AS DO COMMERCIAL VESSEL OPERATORS AND WILL REPORT ON THEM. THE COAST GUARD HAS A DAY TO DAY PRESENCE ON THE RIVERS AND HARBORS OF THE UNITED STATES THAT THE CORPS DOES NOT.

THE COAST GUARD HAS A SUPPORTIVE OPERATIONAL BACKUP GROUP TO THOSE THAT ARE ASSIGNED THE BRIDGE FUNCTIONS. IN ACHIEVING THE ORDERLY TRANSFER OF THE PROGRAM, WE MUST ASK THE CORPS

SOME CRITICAL QUESTIONS: DO THEY INTEND TO ESTABLISH AN INTERAGENCY COMMUNICATION NETWORK? WILL THE INDUSTRY HAVE TO REPORT THE DAILY PROBLEMS WE MAY ENCOUNTER TO BOTH AGENCIES? HOW WILL THE REPORTING OF CORRECTIVE ACTION BE TRANSMITTED? HOW WILL IT BE ACTED UPON? WILL THE CORPS SET UP A SAFETY BROADCAST SYSTEM? WILL THEY AT LEAST HAVE A 24 HOUR NUMBER TO CALL TO REPORT OUTAGES AND REGULATORY VIOLATIONS? WITH SOME CORPS DISTRICT OFFICES ASSIGNED NO BRIDGE PERSONNEL AND OTHERS HAVING ONLY ONE PERSON AVAILABLE, IT DOES NOT APPEAR THAT THE REQUIRED OPERATIONAL DUTIES CAN BE PERFORMED EFFECTIVELY.

THE AWO CAN APPRECIATE THE EFFICIENCY WHICH MIGHT ACCRUE TO THE PERMITTING AND DESIGN PHASE OF THE PERSON OR AGENCY WISHING TO CONSTRUCT A NEW BRIDGE, OR TO RADICALLY MODIFY AN EXISTING ONE. THOSE FUNCTIONS MIGHT VERY WELL RESIDE MORE EFFECTIVELY UNDER THE CONTROL OF THE CORPS OF ENGINEERS. IT APPEARS TO US HOWEVER, THAT THE TRANSFER WILL RESULT IN A REDUCTION OF EFFICIENCY IN THE HANDLING OF BRIDGE OPERATIONAL PROBLEMS. THE 55 PEOPLE TO BE TRANSFERED TO THE CORPS WILL REQUIRE AN ADDITIONAL LAYER OF BUREAUCRACY TO COORDINATE FUNCTIONS. ADDITIONAL PERSONNEL OR INCREASED MAN HOURS FOR EXISTING PERSONNEL WILL BE NECESSARY TO CARRY OUT INVESTIGATION AND INSPECTION FUNCTIONS. FINALLY, A COMMUNICATION NETWORK MUST BE ESTABLISHED BETWEEN WATERWAY CARRIERS AND THE CORPS OF ENGINEERS.

AS WE HAVE INDICATED, AWO WILL NOT OPPOSE THIS TRANSFER IF IT CAN BE SHOWN THAT MOVING THE BRIDGE FUNCTION FROM THE DEPARTMENT OF TRANSPORTATION TO THE DEPARTMENT OF THE ARMY WILL ENSURE ACTUAL EFFICIENCIES TO THE FEDERAL GOVERNMENT AND CONVERSELY NOT RESULT IN DECREASED EFFICIENCY, DISRUPTION OF THE INFORMATION CHAIN, AND UNSAFE CONDITIONS FOR WATER CARRIERS.

THANK YOU FOR THE OPPORTUNITY TO TESTIFY. WE HOPE OUR COMMENTS WILL BE USEFUL IN YOUR DELIBERATIONS.

QUESTIONS FOR THE RECORD SUBMITTED BY MR. CLEMENT TO THE COAST GUARD AND THE ARMY CORPS OF ENGINEERS ON H. R. 4558 A BILL TO TRANSFER THE BRIDGE ADMINISTRATION PROGRAM

QUESTION: One of the arguments supporters make is that the Corps 38 district offices can provide more personal service than the 10 Coast Guard district offices. That is true if you first know which office has responsibility for the bridge you are interested in. Did the Coast Guard experience a lot of complaints about their lack of responsiveness?

ANSWER: We defer to the Coast Guard for this response.

QUESTION: What specific decision-making responsibilities will be delegated to the Corps district offices and which will be retained by the division offices and which will be retained by headquarters?

ANSWER: The responsibility for bridge permit decisions and for drawbridge regulations will be delegated to the district engineer. The decision as to whether a bridge is an obstruction to navigation under Truman-Hobbs will be made in Corps Headquarters. Responsibility for enforcement of bridge permits and drawbridge regulations will be at the district [illegible] level.

QUESTION: Which office at the district, division headquarters levels will be responsible for the decisions delegated at the respective level?

ANSWER: At the district level bridge permit decisions will be handled in the Regulatory Branch and drawbridge regulations will be handled by other operation branches. The Truman-Hobbs decision will most likely be made by the Director of Civil Works.

QUESTION: Within the Corps, will there be a position of deputy assistant secretary for bridge operations or some similar centralized office created?

ANSWER: No. One of the advantages is that decisions will be made at a lower level within the Corps. The Corps has found that a decentralization approach to decision-making provides for more efficient, timely, and good quality decisions.

QUESTIONS FOR THE RECORD SUBMITTED BY MR. HUTTO
TO THE COAST GUARD AND THE ARMY CORPS OF ENGINEERS
ON H. R. 4558, A BILL TO
TRANSFER THE BRIDGE ADMINISTRATION PROGRAM

QUESTION: Who will be responsible for the daily operation and maintenance of the numerous drawbridges in operation around the country, and who will set the criteria for opening these bridges when waterway traffic requires passage?

ANSWER: The drawbridge owner will be responsible for the day-to-day operation of the drawbridge. The Corps would adopt the existing criteria for opening drawbridges established by the Coast Guard. The Corps would then be responsible for establishing all new regulations or revisions to the existing criteria.

QUESTION: Has the Corps or the Coast Guard looked at the feasibility of transferring only the permitting and construction phases of the bridge program and leaving the day-to-day waterway operations with the Coast Guard?

ANSWER: The Coast Guard only offered the transfer of the bridge program as a whole. However, the Corps did consider a partial transfer but did not pursue that because of the need by the Coast Guard to retain some of the bridge personnel. That would not have provided sufficient resources for the Corps to absorb the bridge permit program.

QUESTION: If the Corps receives a complaint about bridge operations, bridge safety or neglect, what system has been or will be established to investigate, correct the situation, and penalize the bridge operator, if necessary?

ANSWER: The Corps intends to adopt and process drawbridge complaints and bridge permit violations in the same manner as the Coast Guard. Details have not been developed. However, the Coast Guard will continue its 24-hour safety broadcast system to notify mariners and will also notify the appropriate individuals within the Corps. The Corps will use its 24-hour capabilities to resolve these issues.

QUESTION: It has been noted that it may well cost approximately $1.5 million dollars to complete the transfer of personnel and supporting equipment and neither the Coast Guard nor the Army Corps of Engineers did a cost/benefit analysis concerning the transfer. Mr. Doyle stated in his testimony that "there has been a conceptual evaluation of the benefits that would result from the consolidation or from the transfer." Please explain the method and benefits from the evaluation and explain how much it is going to cost the Corps to administer the program, what cost savings are to be expected and from what sources?

ANSWER: The benefits from the transfer occur mainly from the bridge permit program. The public will gain through a more efficient and timely permit process for not only the bridge permits but for the other activities regulated by the Corps. Although there will be reduced costs for processing bridge permits due to elimination of duplication, there will only be a minor reduction in cost to the Government. This is due to the necessity to transfer all the manpower and budget resources from the Coast Guard to the Corps. The main costs associated with the program is personnel costs which will remain basically the same. However, because of the Corps accounting method, an additional 70-75 percent of personnel cost for overhead would be charged to the regulatory budget. This will theoretically reduce Corps overhead costs in other mission program budgets. However, because of the number of other programs and the size of the Corps budget of some $4 billion the overhead reduction in those budgets would be difficult to identify.

QUESTION: We understand that 32 of the 55 personnel affected will be required to transfer to a new duty station. What efforts will be made to accommodate individuals who do not wish to relocate?

ANSWER: We defer to the Coast Guard for this response.

QUESTION: It is stated that transfer of the necessary funds ($2.3 million per year) for personnel will accompany transfer of the bridge program. Does the Corps intend to eliminate any of the transferred civilian positions?

ANSWER: No. The existing Corps regulatory program is greatly overextended. There are not sufficient resources to accomplish all of the requirements of that program. The overall performance of that program would be severely reduced if the Corps were given more work without the resources to do the job. In addition, the Coast Guard bridge program is operating on the margin. The efficiencies gained from the merger should produce better service to the public in all the regulatory programs.

QUESTION: As we all know, regulations and policies are subject to interpretation depending on one's point of view. What steps is the Corps going to take to ensure that all district offices interpret the regulations with some consistency?

ANSWER: Upon passage of legislation the Corps, with the assistance of the Coast Guard, will conduct regional workshops on the bridge administration program. This will not only provide consistency among the Corps districts but will also provide consistency between the existing Coast Guard program and the program as it will be administered by the Corps. There will also be some consistency due to the transfer of the existing Coast Guard personnel. The bridge administration program will be integrated into the Corps existing training program.· In addition, as the need arises the Corps will issue Regulatory Guidance Letters to increase consistency.

QUESTION: According to written testimony, the Corps estimates that this transfer will require it to do only ONE additional EIS study per year. Please explain why, out of the new 110 permits you will handle, there is need for only one additional EIS study per year?

ANSWER: The transfer will not result in a decrease in the number of EISs prepared by the Federal government. However, most EISs associated with bridges are prepared by the Federal Highway Administration. This will not change. Beyond the EIS's prepared for bridges by the FHWA, the Coast Guard generally prepares, on average, one EIS per year. This is the one additional EIS per year that is referred to in the testimony which would then be prepared by the Corps.

QUESTION: It is stated that this bill does not attempt to RECODIFY the present bridge statutes at this time. When will recodification occur, who will draft the legislation, and how will it affect the legal statutes or the transfer?

ANSWER: The draft bill provides for the Corps to study existing legislation and provide a report to Congress. A decision on if and how to proceed would have to be made at that time.

DRAFT

FEBRUARY 1988

FINAL IMPLEMENTATION PLAN

Transfer of Bridge Administration Program from the U.S. Coast Guard to the U.S. Army Corps of Engineers

US Army Corps
of Engineers

United States
Coast Guard

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2 February 1980

1. Introduction.

a. This document contains the provisions and procedures to implement the transfer of the bridge administration program from the U.S. Coast Guard to the U.S. Army upon enactment of a law requiring this transfer. The bridge administration program consists of three interrelated functions:

1. Approval of location and plans of bridges and causeways.
2. Regulation of the operation of drawbridges.
3. Alteration of bridges determined to be unreasonable obstructions to navigation (Truman-Hobbs).

A draft bill to accomplish the transfer has been proposed by the Department of Transportation and concurred in by the Corps of Engineers. (See Appendix A). It has been sent to the Office of Management and Budget (OMB) for clearance and approval. OMB would then send the proposed bill to Congress for its consideration. This plan is based on the provisions of the proposed bill.

b. The U.S. Coast Guard would transfer its personnel, budget, and records relating to the bridge administration program to the Corps of Engineers. In support of the transfer the Corps and the Coast Guard will notify appropriate parties, publish regulations, and train personnel as described in this plan.

2. Schedule.

The schedule of major actions to accomplish the transfer is listed below. These actions are described in greater detail in this plan. The days commence with the date of the implementing legislation. (A joint Coast Guard/Corps public information release will be made upon submission of the proposed legislation to Congress.)

Day 1-14	Notify applicants, permittees, industry, and public.
Day 1-30	Corps: publish interim regulations. USCG: publish notice to rescind its regulations.
Day 30-60	Transfer Truman-Hobbs headquarters personnel, budget, and files.
Day 30-60	Conduct three regional workshops to train existing Corps personnel.
Day 30-365	Transfer personnel, budget, and files for bridge permits and drawbridges. In phases from publication of regulations till 1 year after legislation.
Day 30-365	Train transfered personnel by sending to Regulatory I as spaces are available. (Regulatory I is the Corps basic training course for new regulatory personnel.)
Day 365	USCG rescinds its regulations.

3. Notification.

The Corps and Coast Guard will jointly publish a Notice in the Federal Register and issue a public notice to all interested parties (applicants, permittees, industry, and general public) announcing the transfer of the bridge program. (See Appendices B&C.) The Corps and Coast Guard will inform all applicants of the procedures to be followed for their applications during the transition period.

4. Personnel.

a. Timing. Upon the date of the implementing legislation the Coast Guard will complete personnel actions as outlined in Appendix D. Vacant spaces will be transfered immediately. However, in general actual personnel will be transfered beginning with the publication of Corps implementing regulations and completed within 1 year of legislation. The Coast Guard will fund all change of station personnel costs and any separation costs.

b. Distribution - Headquarters. As shown in Appendix E seven people will be transferred to Corps headquarters with four going to the Regulatory Branch, Operations and Readiness Division, Civil Works Directorate and three to the Engineering Division, Engineering and Construction Directorate. The four personnel transferring into the Regulatory Branch are the Coast Guard Bridge Administration Division positions as follows: GM-14 (1), GS-13 (2), and GS-7 (1). The remaining three personnel assigned to the Bridge Alteration Branch (Truman-Hobbs) would be transferred to the Engineering and Construction Directorate as follows: the GM-14 Engineer will be located in the Water Projects Section, General Engineering Branch and the GS-14 and GS-13 Structural Engineers will be located in the Structural Engineering Branch.

c. Distribution - Field Offices. The remaining 48.5 people or spaces (including 8 people or spaces at Coast Guard Headquarters) will be transferred to Corps District offices as indicated in Appendix E.

5. Budget. The transfer will involve the transfer of two types of funds: personnel costs and alteration of bridges. The Coast Guard and the Corps have agreed to transfer funds for the bridge administration program in accordance with the following procedures.

a. Upon enactment into law of the transfer, funding and support costs for all vacant civilian positions in the program will be transferred immediately.

b. Upon transfer of the civil engineering positions and associated personnel positions which support the bridge alteration program, support costs for the positions as well as all previously appropriated but not yet expended project funds will be transferred.

c. Other bridge personnel and support funding will be transferred at the time the personnel electing to transfer to the Corps with the function are actually transferred. Funding for vacancies created by personnel electing not to transfer to the Corps will be transferred to the Corps as soon as the position is vacated.

d. The associated funding has been identified in the Preliminary Implementation Plan prepared by the joint Coast Guard/Corps Working Group. The Coast Guard Accounting Division will establish a separate point account to track all of the funding that pertains to this transfer of function.

6. Records and files.

a. District. Within 2 weeks of the date of the implementing legislation the Corps and Coast Guard Districts will identify the geographic scope of each Corps District within each Coast Guard District. Thereafter, within the next 60 days, all inactive files and all active files for cases where the required public notice has not been issued will be transferred to the appropriate Corps District. All active files for cases where the required public notice has been issued will be processed to a conclusion by the Coast Guard and then transferred to the Corps. Sufficient program staff will remain with the Coast Guard to complete such cases. However, cases which the Coast Guard believes will take longer than 1 year will be transferred to the Corps as soon as practicable. Furthermore, all cases will be transferred to the Corps within 1 year of the legislation.

b. USACE. The Truman-Hobbs files will be transferred to Engineering and Construction Directorate with the personnel. For the bridge permit and drawbridge files the case specific files will be transferred directly to the appropriate Corps district while the policy type files will be transferred to the Corps Regulatory Branch in the Civil Works Directorate.

7. Physical Space.

The only problem area with regard to physical space is in the Regulatory Branch in USACE. Upon the date of legislation the Corps will seek additional space for the Regulatory Branch to accomadate the four additional people. On a short term basis two people will be placed in the existing branch space with two in a nearby office.

8. Training.

a. Coast Guard personnel. The Coast Guard personnel will be sent to the Regulatory I training course as soon as spaces are available. A special session of Regulatory I will be scheduled if needed. Some Coast Guard personnel who are likely to transfer to the Corps will attend Regulatory I on a space available basis prior to the transfer; some already have.

b. Corps personnel. Two or three regional workshops on the bridge administration program will be conducted within 60 days of the date of the implementing legislation.

9. Regulations.

a. Timing. The Corps will publish interim regulations implementing the bridge administration within 30 days of the date of the implementing legislation. Upon publication of these regulations the Corps will begin accepting new applications for bridge permits and requests for drawbridge regulation changes. The Coast Guard will normally complete permit applications where a public notice has been issued. All other pending applications will be transferred to the Corps for completion. (However, in some districts the Corps and the Coast Guard may agree that the Coast Guard should continue to process some applications depending on personnel transfer dates.) The Truman-Hobbs function will be transferred to the Corps when Coast Guard personnel are transferred.

b. Bridge permits. The Corps will incorporate the bridge permit program within its existing permit regulations at 33 CFR 320-330. Therefore, applications for bridge permits will be processed in accordance with the existing Corps permit process. However, because of the similarities between the Corps and Coast Guard programs, there will be little change in the basic process.

c. Drawbridges. The existing Coast Guard process for issuing and changing drawbridge regulations and the drawbrige regulations themselves will be published at 33 CFR 333.

d. Truman-Hobbs regulations. The Corps will publish procedures for determining if bridges are obstructive to navigation in its regulations at 33 CFR 321. The Corps will develop an Engineering Regulation adopting procedures for altering bridges to remove obstructions to navigation.

10. NEPA. The transfer action, made for the purpose of more efficient government, may not be subject to the National Environmental Policy Act (NEPA). However, if the transfer were subject to a NEPA review it would not have a significant impact on the human environment. The actual decisions on bridge and causeway permits would, of course, continue to be subject to a full NEPA review. In any event, the Corps and Coast Guard have considered alternatives and impacts, such as on the relocation of Coast Guard employees, in preparing this plan. One alternative considered was the transfer of all Coast Guard headquarters people with the bridge program run in the existing centralized format. While this would minimize impact on the Coast Guard Washington people, it was rejected as being incompatible with the decentralized structure of the Corps and would be inconsistent with the administration of all other Corps regulatory responsibilities. Where discretion existed, district assignments were made based on minimizing Coast Guard field relocations. Nevertheless, most Coast Guard field people would have to relocate since the Corps has 38 district offices (includes 2 operating divisions) versus 10 Coast Guard districts.

BRIDGE TRANSFER BILL
DRAFT 23 JUN 1987

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DRAFT BILL

"To transfer administration of bridges and causeways over navigable waters from the United States Coast Guard to the United States Army Corps of Engineers, and for other purposes."

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That this Act may be cited as the "Bridge Administration Transfer Act".

SEC. 2. AUTHORIZATION AND DELEGATION

(a) Authorization

On a date, or dates, specified in a memorandum of understanding between the Secretary of Transportation and the Secretary of the Army, according to a plan and schedule agreed upon therein, but not later than one year from the date on which this Act has become law, administration of bridges and causeways over navigable waters shall be transferred from the Secretary of Transportation to the Secretary of the Army. The administration transferred shall include all authority for bridge and causeway approvals, drawbridge regulations, administration of bridge alterations, and all other related authority, functions, duties, and responsibilities for bridges and causeways over navigable waters otherwise exercised by the Secretary of Transportation except:

(1) administration of bridges over the Saint Lawrence Seaway;

(2) authority to prescribe lights and other signals on bridges and causeways for the benefit of navigation; and

(3) approval of tolls for transit across bridges.

For purposes of this act, "navigable waters" means waters which are subject to the ebb and flow of the tide, or which are used or susceptible to use in their natural condition or by reasonable improvement as a means to transport interstate or foreign commerce.

(b) Delegation

The Secretary of the Army may:

(1) delegate any of the authority transferred under section 2(a) of this Act to the Chief of Engineers and other officers and employees of the Army;

(2) set conditions for the exercise of that authority; and

(3) authorize further delegation.

BRIDGE TRANSFER BILL - DRAFT 23 JUN 1987 - 1873-3

SEC. 3. PROCEDURE FOR TRANSFER

(a) Personnel, money, property, etc.

In ~~conjunction~~ Consistent with the transfer of administration under section 2(a) of this Act, at any time within one year from the date on which this Act becomes law, according to the plan and schedule in the memorandum of transfer under section 2(a) of this Act, the Secretary of Transportation ~~may~~ shall transfer to the Secretary of the Army ~~any~~:

(1) employees and [illegible] personnel positions;

(2) assets and liabilities, contracts, property, unexpended balances of appropriations, authorizations, allocations, funds collected;

(3) records and files, equipment; and

(4) other resources or assets which the Secretary of Transportation is otherwise authorized to control or use for the purposes of administration of laws relating to bridges and causeways over navigable waters.

The transfer of full-time employees (except special Government employees) and part-time employees holding permanent positions shall not cause any such employee to be separated or reduced in grade or compensation for one year after the date on which each employee is transferred. Appropriations and funds shall be transferred and accounted for in accordance with section 202 of the Budget and Accounting Procedures Act of 1950 (31 U.S.C. 1531).

(b) Regulations

Any time after the date on which this Act becomes law, the Secretary of the Army is authorized to publish regulations relating to bridges and causeways. The effective date or dates of these regulations shall be established in accordance with the plan and schedule in the memorandum of transfer under section 2(a) of this Act. Existing regulations shall remain in effect until expressly rescinded.

(c) Legal rights and duties

No approvals, notices, determinations, grants, contracts, permits or permit actions, regulatory actions, penalties or penalty actions, suits or claims against or by the United States or officers and agencies of the United States, or other legal rights or duties relating to bridges and causeways over navigable waters shall be affected by the transfer under section 2(a) of this Act, except that the Secretary of the Army or officers or agencies of the Secretary of the Army shall be substituted as appropriate for the Secretary of Transportation or officers or agencies of the Secretary of Transportation, in accordance with the plan and schedule in the memorandum of transfer under section 2(a) of this Act. This subsection does not prevent the modification, continuation, or discontinuation of any legal rights or duties by the Secretary of the Army under the same terms and conditions and to the same extent as would have been lawful by the Secretary of Transportation.

SEC. 4. CONFORMING AMENDMENTS

(a) Effect of amendments

The conforming amendments in this section shall not affect any authority of the Secretary of Transportation for the administration of bridges and causeways over navigable waters until that authority is transferred under section 2(a) of this Act.

(b) Amendments to the Rivers and Harbors Appropriations Act of 1899

The Act of March 3, 1899, otherwise known as the Rivers and Harbors Appropriations Act of 1899, is amended as follows:

(1) The text of section 9 of the Act (33 U.S.C. 401) is amended to read, in full, as follows:

"It shall not be lawful to construct or commence the construction of any bridge, causeway, dam, or dike over or in any port, roadstead, haven, harbor, canal, navigable river, or other navigable water of the United States until the consent of Congress to the building of such structures shall have been obtained and until the plans for the bridge, causeway, dam, or dike shall have been submitted to and approved by the Secretary of the Army. However, such structures may be built under authority of the legislature of a State across rivers and other waterways the navigable portions of which lie wholly within the limits of a single State, provided the location and plans thereof are submitted to and approved by the Secretary of the Army before construction is commenced. When plans for any bridge or other structure have been approved by the Secretary of the Army it shall not be lawful to deviate from such plans either before or after completion of the structure unless modification of said plans have previously been submitted to and received the approval of the Secretary of the Army. In the case of a bridge over the Saint Lawrence Seaway, the authority in this section shall be exercised by the Secretary of Transportation instead of the Secretary of the Army. The approval required by this section does not apply to any bridge or causeway over waters that are not subject to the ebb and flow of the tide and that are not used and are not susceptible to use in their natural condition or by reasonable improvement as a means to transport interstate or foreign commerce."

(2) The text of section 18 of the Act (33 U.S.C. 502) is amended to read, in full, as follows:

"(a) Whenever the Secretary of the Army shall have good reason to believe that any railroad or other bridge now constructed, or which may hereinafter be constructed, over any of the navigable waterways of the United States is an unreasonable obstruction to the free navigation of such waters on account of insufficient height, width or span, or otherwise, or where there is difficulty in passing the draw opening or the draw span of such bridge by rafts, steamboats, or other water craft, it shall be the duty of the Secretary, first giving the parties reasonable opportunity to be heard, to give notice to the persons or corporations owning or controlling such bridge so to alter the same as to render navigation through or under it reasonably free, easy, and unobstructed; and in giving such notice the Secretary shall specify the changes that are required to be made, and shall prescribe in each case a reasonable time in which to make them. If at the end of such time the alteration has not been made, the Secretary of the

Army shall forthwith notify the United States Attorney for the district in which such bridge is situated, to the end that the criminal proceedings hereinafter mentioned may be taken. If the persons, corporation, or association owning or controlling any railroad or other bridge shall, after receiving notice to that effect, as hereinafter required, from the Secretary of the Army, and within the time prescribed by the Secretary willfully fail or refuse to remove the same or to comply with the lawful order of the Secretary of the Army in the premises, such persons, corporation, or association shall be deemed guilty of a misdemeanor, and on conviction thereof shall be punished by a fine not exceeding $5,000, and every month such persons, corporation, or association shall remain in default in respect to the removal of alteration of such bridge, shall be deemed a new offense, and subject such persons, corporation, or association so offending to the penalties above prescribed.

"(b) No owner or operator of any bridge, drawbridge, or causeway shall endanger, unreasonably obstruct, or make hazardous the free navigation of any navigable water of the United States by reason of the failure to keep the bridge, drawbridge, or causeway and any accessory works in proper repair.

"(c) Whoever violates any provision of this section, or any order issued under this section, shall be liable to a civil penalty of not more than $1000. Each day a violation continues shall be deemed a separate offense. No penalty may be assessed under this subsection until the person charged is given notice and an opportunity for a hearing on the charge. The Secretary of the Army may assess and collect any civil penalty incurred under this subsection and in his discretion, may remit, mitigate, or compromise any penalty until the matter is referred to the Attorney General. If a person against whom a civil penalty is assessed under this subsection fails to pay that penalty, an action may be commenced in the district court of the United States for any district in which the violation occurs for such penalty.

"(d) In the case of a bridge over the Saint Lawrence Seaway, the authority in this section shall be exercised by the Secretary of Transportation instead of the Secretary of the Army."

(c) Amendments to the Bridge Act of 1906

The Act of March 23, 1906, otherwise known as the Bridge Act of 1906, is amended as follows:

(1) The text of the first section of the Act (33 U.S.C. 491) is amended to read, in full, as follows:

"When, after March 23, 1906, authority is granted by Congress to any persons to construct and maintain a bridge across or over any of the navigable waters of the United States, such bridge shall not be built or commenced until the plans and specifications for its construction, together with such drawings of the proposed construction and such map of the proposed location as may be required for a full understanding of the subject, have been submitted to the Secretary of the Army for the Secretary's approval, nor until the Secretary shall have approved such plans and specifications and the location of such bridge and accessory works; and when the plans for any bridge to be constructed under the provisions of this Act have been approved by the Secretary it shall not be lawful to deviate from such plans, either before or after completion of the structure, unless the modification of such plans has previously been submitted to and received the approval of the Secretary. In the case of a bridge over the Saint Lawrence

Seaway, the authority in this section shall be exercised by the Secretary of Transportation instead of the Secretary of the Army. This section shall not apply to any bridge or causeway over waters which are not subject to the ebb and flow of the tide and which are not used and are not susceptible to use in their natural condition or by reasonable improvement as a means to transport interstate or foreign commerce."

(2) The text of section 4 of the Act (33 U.S.C. 494) is amended to read, in full, as follows:

"No bridge erected or maintained under the provisions of this Act shall at any time unreasonably obstruct the free navigation of the waters over which it is constructed, and if any bridge erected in accordance with the provisions of this Act shall, in the opinion of the Secretary of the Army, at any time unreasonably obstruct such navigation, either on account of insufficient height, width of span, or otherwise, or if there be difficulty in passing the draw opening or the drawspan of such bridge by rafts, steamboats, or other watercraft, it shall be the duty of the Secretary of the Army after giving the parties interested reasonable opportunity to be heard, to notify the persons owning or controlling such bridge to so alter the same as to render navigation through or under it reasonably free, easy, and unobstructed, stating in such notice the changes required to be made and prescribing in each case a reasonable time in which to makes such changes, and if at the end of the time so specified the changes required have not been made, the persons owning or controlling such bridge shall be deemed guilty of a violation of this Act; and all such alterations shall be made and all such obstructions shall be removed at the expense of the persons owning or operating said bridge. In the case of a bridge over the Saint Lawrence Seaway, the above authority in this section shall be exercised by the Secretary of Transportation instead of the Secretary of the Army. The persons owning or operating any such bridge shall maintain, at their own expense, such lights and other signals thereon as the Secretary of Transportation shall prescribe. If the bridge shall be constructed with a draw, then the draw shall be opened promptly by the persons owning or operating such bridge upon reasonable signal for the passage of boats and other water craft."

(3) The text of section 5 of the Act (33 U.S.C. 495) is amended to read, in full, as follows:

"(a) Any person who shall willfully fail or refuse to comply with the lawful order of the Secretary of the Army or the Secretary of Transportation made in accordance with provisions of this Act shall be deemed guilty of a misdemeanor and on a conviction thereof shall be punished in any court of competent jurisdiction by a fine not exceeding $5,000, and every month such persons shall remain in default shall be deemed a new offense and subject such persons to additional penalties therefor; and in addition to the penalties above described the Secretary of the Army (or the Secretary of Transportation, in the case of a bridge over the Saint Lawrence Seaway) may, upon refusal of the persons owning or controlling any such bridge and accessory works to comply with any lawful order issued by the Secretary in regard thereto, cause the removal of such bridge, and suit for such expense may be brought in the name of the United States against such persons, and recovery had for such expense in any court of competent jurisdiction; and the removal of any structures erected or maintained in violation of the provisions of this Act or the order or direction of the Secretary made in pursuance thereof may be enforced by injunction, mandamus, or other summary process, upon application to the district court in the district in which such structure may, in whole or part, exist, and proper proceedings to this end may be instituted under the direction of the Attorney General of the United States at the request of the Secretary; and in case of any litigation arising from any obstruction or alleged obstruction to navigation created by the construction of any bridge under this Act, the cause or question arising may be tried before the district court of the United States in any district which any portion of said obstruction or bridge touches.

"(b) Whoever violates any provision of this Act, or any order issued under this Act, shall be liable to a civil penalty of not more than $1,000. Each day a violation continues shall be deemed a separate offense. No penalty may be assessed under this subsection until the person charged is given notice and an opportunity for a hearing on the charge. The Secretary whose order is violated, or who is responsible for the administration of a provision of this Act which is violated, may assess and collect any civil penalty incurred under this subsection and, in the Secretary's discretion, may remit, mitigate, or compromise any penalty until the matter is referred to the Attorney General. If a person against whom a civil penalty is assessed under this subsection fails to pay that penalty, an action may be commenced in the district court of the United States for any district in which the violation occurs for such penalty."

(d) Amendment to the Act of August 18, 1894

The text of section 5 of the Act of August 18, 1894 (33 U.S.C. 499) is amended to read, in full, as follows:

"(a) It shall be the duty of all persons owning, operating, and tending drawbridges across the navigable rivers and other waters of the United States, whenever built, to open, or cause to be opened, the draws of such bridges under such rules and regulations as in the opinion of the Secretary of the Army the public interests require to govern the opening of drawbridges for the passage of vessels and other water crafts, and such rules and regulations, when so made and published, shall have the force of law. Every such person who shall willfully fail or refuse to open, or cause to be opened, the draw of any such bridge for the passage of a boat or boats, as provided in such regulations, shall be deemed guilty of a misdemeanor, and on conviction thereof shall be punished by a fine of not more than $2,000 nor less than $1,000, or by imprisonment (in the case of a natural person) for not exceeding one year, or by both such fine and imprisonment, in the discretion of the court: Provided, That the proper action to enforce the provision of this subsection may be commenced before any magistrate, judge, or court of the United States, and such magistrate, judge, or court shall proceed in respect thereto as authorized by law in case of crimes against the United States: Provided further, That whenever, in the opinion of the Secretary of the Army, the public interests require it, the Secretary may make rules and regulations to govern the opening of drawbridges for the passage of vessels and other water crafts, and such rules and regulations, when so made and published, shall have the force of law, and any willful violation thereof shall be punished as hereinbefore provided: Provided further, That any regulations made in pursuance of this section may be enforced as provided in section 17 of the Act of March 3, 1899 (33 U.S.C. 413), the provisions whereof are made applicable to the said regulations.

"(b) No vessel owner or operator shall signal a drawbridge to open for any nonstructural vessel appurtenance which is not essential to navigation or which is easily lowered and no person shall unreasonably delay the opening of a draw after the signal required by rules or regulations under this section has been given. The Secretary of the Army shall issue rules and regulations to implement this subsection.

"(c) Whoever violates any rule or regulation issued under subsection (a) or (b), shall be liable to a civil penalty of not more than $1,000. No penalty may be assessed under this subsection until the person charged is given notice and an opportunity for a hearing on the charge. The Secretary of the Army may assess and collect any civil penalty incurred under this subsection and, in the Secretary's discretion, may remit, mitigate, or compromise any penalty until the matter is referred to the Attorney General. If a person against whom a civil penalty is assessed under this subsection fails to pay that penalty, an action may be commenced in the district court of the United States for any district in which the violation occurs for such penalty.

"(d) In the case of a bridge over the Saint Lawrence Seaway, the authority in this section shall be exercised by the Secretary of Transportation instead of the Secretary of the Army."

(e) Amendments to the Truman-Hobbs Act

The Act of June 21, 1940, otherwise known as the Truman-Hobbs Act, is amended as follows:

(1) The text of the first section of the Act (33 U.S.C. 511) is amended to read, in full, as follows:

"When used in this Act, unless the context indicates otherwise--

"(1) The term "alteration" includes changes of any kind, reconstruction, or removal in whole or in part.

"(2) The term "bridge" means a lawful bridge over navigable waters of the United States, including approaches, tenders, and appurtenances thereto, which is used and operated for the purpose of carrying railroad traffic or both railroad and highway traffic, or if a State, county, municipality, or other political subdivision is the owner or joint owner thereof, which is used and operated for the purpose of carrying highway traffic.

"(3) The term "bridge owner" means any State, county, municipality, or other political subdivision, or any corporation, association, partnership, or individual owning, or jointly owning, any bridge, and, when any bridge shall be in the possession or under the control of any trustee, receiver, trustee in a case under title 11 of the United States Code, or lessee, such term shall include both the owner of the legal title and person or the entity in possession or control of such bridge.

"(4) The term "Secretary" means the Secretary of the Army, except in the case of a bridge over the Saint Lawrence Seaway, in which case it means the Secretary of Transportation.

"(5) The term "United States", when used in a geographical sense, includes the Territories and possessions of the United States."

(2) The text of section 4 of the Act (33 U.S.C. 514) is amended to read, in full, as follows:

"After the service of an order under this Act, it shall be the duty of the bridge owner to prepare and submit to the Secretary, within a reasonable time as prescribed by the Secretary, general plans and specifications to provide for the alteration of such bridge in accordance with such order, and for such additional alteration of such bridge as the bridge owner may desire to meet the necessities of railroad or highway traffic, or both. The Secretary may approve or reject such general plans and specifications, in whole or in part, and may require the submission of new or additional plans and specifications, but when the Secretary shall have approved general plans and specifications, they shall be final and binding upon all parties unless changes therein be afterwards approved by the Secretary and the bridge owner."

(3) The text of section 7 of the Act (33 U.S.C. 517) is amended to read, in full, as follows:

"Following service of the order requiring alteration of the bridge, the Secretary may make partial payments as the work progresses to the extent that funds have been appropriated. The total payments out of Federal funds shall not exceed the proportionate share of the United States of the total cost of the project paid or incurred by the bridge owner, and if such total cost exceeds the cost guaranteed by the bridge owner, shall not exceed the proportionate share of the United States of such guaranteed cost, except that if the cost of the work exceeds the guaranteed cost by reason of emergencies, conditions beyond the control of the owner, or unforseen or undetermined conditions, the Secretary may, after full review of all the circumstances, provide for additional payments by the United States to help defray such excess cost to the extent the Secretary deems it to be reasonable and proper, and shall certify such additional payments to the Secretary of the Treasury for payment. All payments made to any bridge owner herein provided for shall be made by the Secretary of the Treasury upon certifications of the Secretary."

(4) The text of section 13 of the Act (33 U.S.C. 523) is amended to read, in full, as follows:

"If the owner of any bridge and the Secretary shall agree that in order to remove an obstruction to navigation, or for any other purpose, a relocation of such bridge or the construction of a new bridge upon a new location shall be preferable to an alteration of the existing bridge, such relocation or new construction may be carried out at such new site and upon such terms as may be acceptable to the bridge owner and the Secretary, and the cost of such relocation or new construction, including also any expense of changes in and additions to rights-of-way, stations, tracks, spurs, sidings, switches, signals, and other railroad facilities and property, and relocation of shippers required for railroad connection with the bridge at the new site, shall be apportioned as between the bridge owner and the United States in the manner which is provided for in section 6 of this Act (33 U.S.C. 516) in the case of an alteration and the share of the United States paid from the appropriation authorized in section 8 of this Act (33 U.S.C. 518): Provided, That nothing in this section shall be construed as requiring the United States to pay any part of the expense of building any bridge across a navigable stream which the Secretary shall not find to be, in fact, a relocation of an existing bridge."

(f) Amendments to the General Bridge Act of 1946

The Act of August 12, 1946, otherwise known as the General Bridge Act of 1946, is amended as follows:

(1) The text of section 502 of the Act (33 U.S.C. 525) is amended to read, in full, as follows:

"(a) Consent of Congress

"The consent of Congress is hereby granted for the construction, maintenance, and operation of bridges and approaches thereto over the navigable waters of the United States, in accordance with the provisions of this title.

"(b) Approval of plans

"The location and plans for such bridges shall be approved by the Secretary of the Army before construction is commenced, and, in approving the location and plans of any bridge, the Secretary may impose any specific conditions relating to the maintenance and operation of the structure which the Secretary may deem necessary in the interest of public navigation, and the conditions so imposed shall have the force of law. In the case of a bridge over the Saint Lawrence Seaway, the authority in this subsection shall be exercised by the Secretary of Transportation instead of the Secretary of the Army. This subsection shall not apply to any bridge or causeway over waters which are not subject to the ebb and flow of the tide and which are not used and are not susceptible to use in their natural condition or by reasonable improvement as a means to transport interstate or foreign commerce.

"(c) Private highway toll bridges

"Notwithstanding the provisions of subsections (a) and (b) of this section, it shall be unlawful to construct or commence the construction of any privately owned highway toll bridge until the location and plans thereof shall also have been submitted to any approved by the highway department or departments of the State or States in which the bridge and its approaches are situated: and where such bridge shall be between two or more States and the highway departments thereof shall be unable to agree upon the location and plans therefor, or if they, or either of them, shall fail or refuse to act upon the location and plans submitted, such location and plans then shall be submitted to the Secretary of Transportation and, if approved by the Secretary of Transportation, approval by the highway departments shall not be required."

(2) The text of section 510 of the Act (33 U.S.C. 533) is amended to read, in full, as follows:

"(a) Any person who willfully fails or refuses to comply with any lawful order of the Secretary of the Army or the Secretary of Transportation issued under the provisions of this title, or who willfully fails to comply with any specific conditions imposed by the Secretary of the Army or the

Secretary of Transportation relating to the maintenance and operation of bridges, or who willfully refuses to produce books, papers, or documents in obedience to a subpena or other lawful requirement under this title, or who otherwise willfully violates any provision of this title, shall, upon conviction thereof, be punished by a fine not to exceed $5,000 or by imprisonment for not more than one year, or by both such fine and imprisonment.

"(b) Whoever violates any provision of this Act, or any order issued under this Act, shall be liable to a civil penalty of not more than $1,000. Each day a violation continues shall be deemed a separate offense. No penalty may be assessed under this subsection until the person charged is given notice and an opportunity for a hearing on the charge. The Secretary responsible for the provision or order violated may assess and collect the civil penalty incurred under this subsection and, in the Secretary's discretion, may remit, mitigate, or compromise the penalty until the matter is referred to the Attorney General. If a person against whom a civil penalty is assessed under this subsection fails to pay that penalty, an action may be commenced in the district court of the United States for any district in which the violation occurs for such penalty."

(g) **Amendments to the International Bridge Act of 1972**

Public Law 92-434 of September 26, 1972, otherwise known as the International Bridge Act of 1972, is amended as follows:

(1) The text of section 2 of the Act (33 U.S.C. 535) is amended to read, in full, as follows:

"The consent of Congress is hereby granted to the construction, maintenance, and operation of any bridge and approaches thereto, which will connect the United States with any foreign country (hereinafter in this Act referred to as an "international bridge") and to the collection of tolls for its use, so far as the United States has jurisdiction. Such consent shall be subject to (1) the approval of the proper authorities in the foreign country concerned; (2) the provisions of the Act entitled "An Act to regulate the construction of bridges over navigable waters", approved March 23, 1906 (33 U.S.C. 491-498), except section 6 (33 U.S.C. 496), whether or not such bridge is to be built across or over any of the navigable waters of the United States; and (3) the provisions of this subchapter. In the case of a bridge over the Saint Lawrence Seaway, and in the case of a bridge which would not otherwise be subject to the Act of March 23, 1906, the authority of the Secretary of the Army in this section shall be exercised by the Secretary of Transportation instead of the Secretary of the Army."

(2) The text of section 5 of the Act (33 U.S.C. 535c) is amended to read, in full, as follows:

"The approval of the Secretary of the Army or the Secretary of Transportation as required by the first section of the Act of March 23, 1906 (33 U.S.C. 491) and section 2 of this Act (33 U.S.C. 535) shall be given only subsequent to the President's approval, as provided for in section 4 of this Act, and shall be null and void unless the construction of the bridge is commenced within two years and completed within five years from the date of the Secretary's approval: Provided, however, That the Secretary concerned, for good cause shown, may extend for a reasonable time either or both of the time limits herein provided."

(3) The text of section 11 of the Act (33 U.S.C. 535h) is amended to read, in full, as follows:

"The Secretary of the Army and the Secretary of Transportation shall each make an annual report of approvals granted under sections 2 and 5 of this Act (33 U.S.C. 535 and 535c), which may be consolidated with other annual reports required by law."

(h) **Amendment** to title 14, United States Code

Section 662 of title 14, United States Code, is amended by striking clause (3), by redesignating clause "(4)" as clause "(3)", and by changing "(1)-(3)" at the end of the redesignated clause (3) to read "(1)-(2)".

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ANALYSIS OF THE BRIDGE ADMINISTRATION TRANSFER BILL

Introduction

This bill will transfer bridge administration from the Coast Guard to the Army Corps of Engineers, from which the function was transferred at the time of the creation of the Department of Transportation in 1967. (Please see the Department of Transportation Act, Public Law 89-670, October 15, 1966.) The term "bridge administration" refers to the Coast Guard's authority to issue bridge and causeway construction permits, issue drawbridge regulations, and approve bridge alterations. This bill has been prepared by the Coast Guard and the Department of Transportation, with the concurrence of the Corps of Engineers and the Department of the Army. (Also, please see House Report 100-154, p. 11-12, June 11, 1987.)

Purpose

The purpose of this transfer of administration is to simplify bridge administration for both the Government and the public. A bridge or causeway over navigable waters of the United States is currently subject to Federal regulation by the Coast Guard and the Corps of Engineers, both of which regulate the bridge or causeway construction or alteration for the protection of navigation. Under the current statutes, the Coast Guard's role is to ensure that a bridge or causeway does not "unreasonably obstruct the free navigation of the waters," 33 U.S.C. 494, and to impose conditions which are "necessary in the interest of public navigation" on the approval of bridge or causeway construction or alteration, 33 U.S.C. 525(b). The Army Corps of Engineers has the concurrent role of preventing "any obstruction . . . to the navigable capacity of any of the waters of the United States," 33 U.S.C. 403, of regulating "piers, wharves, bulkheads, or other works," 33 U.S.C. 404, and of regulating "any bridge pier or abutment" which may cause damage by deflection of current, 33 U.S.C. 500.

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Since 1967, when much of the authority over bridge administration was originally transferred from the Corps of Engineers to the Coast Guard, additional requirements in the Clean Water Act (Federal Water Pollution Control Act), the National Environmental Policy Act, and related conservation statutes and executive orders, have injected a much broader range of issues into the bridge and causeway approval process. With involvement in these broader issues, the overlap between the Coast Guard and the Corps of Engineers has become more cumbersome for those agencies and for the affected public. Also, bridge administration coordination between the Coast Guard and the Corps of Engineers requires varying interaction between 12 Coast Guard districts and 38 Army Corps of Engineers districts, which do not have congruent boundaries.

Except for the regulation of bridge and causeway lighting, which involves minimal regulatory action, this transfer will completely remove the Coast Guard from bridge administration. The transfer of administration will also resolve the difficulty of deciding whether the Coast Guard or the Corps of Engineers should be the lead agency for preparation of the environmental impact study on a major bridge or causeway project. Transfer of authority to the Corps of Engineers will also improve responsiveness to the public because of the more decentralized administrative structure of the Corps of Engineers. The Corps of Engineers plans to delegate most aspects of bridge administration to its 38 district offices, and will thus be able to provide more face-to-face and on-site contact.

General Design of the Bill

No attempt has been made to recodify the present bridge statutes. These statutes make up a tangled web of laws which dates back to the Rivers and Harbors Appropriations Act of 1899. (Please see the review of the bridge statutes in the section by section analysis below.) Recodification of these statutes would be a complex and controversial process which would make it difficult to accomplish this desirable transfer of authority in a reasonable period of time. Therefore, the only changes that this bill will make to the bridge statutes are ones which are either directly related to the transfer of functions or purely technical in nature.

Under this bill, the legal authority for bridge administration would be transferred from the Secretary of Transportation to the Secretary of the Army. All authority over bridges and causeways which is currently vested in the Department of Transportation would be transferred to the Secretary of the Army except (1) authority to prescribe lights and other signals on bridges and causeways for the benefit of navigation (retained because of the Coast Guard's responsibilities for administration of lighting requirements under the Inland Navigational Rules) and (2) authority currently exercised by agencies other than the Coast Guard within the Department of Transportation. Authority currently exercised by other agencies within the Department of Transportation includes (1) the Federal Highway Administration's regulation of tolls, which has been almost completely eliminated by the Surface Transportation Act of 1987, (2) the Saint Lawrence Seaway Development Corporation's administration of bridges over the Saint Lawrence Seaway, and (3) the Federal Highway Administration's and the Federal Railroad Administration's approval of international bridges crossing non-navigable waters (or, more specifically, not meeting the navigability criteria in the bridge statutes). (Please see current delegations of authority within the Department of Transportation at 49 C.F.R. 1.[illegible]6 through 1.52.)

Section by Section Analysis

Section 1

Section 1 of the bill names it the "Bridge Administration Transfer Act."

Section 2

Section 2 of the bill is the basic authority for the transfer. It allows the Secretary of Transportation and the Secretary of the Army to specify by memorandum of understanding the details of transfer within the general limitation that the transfer must be completed within one year after enactment, in order to allow for maximum flexibility in the actual transfer of personnel and resources. This section also makes it clear that the Secretary of the Army may delegate any of the authority transferred to the Chief of Engineers and others.

This section specifies that the administration transferred shall include all authority for bridge and causeway approvals, drawbridge regulations, administration of bridge alterations, and all other authority, functions, duties, and responsibilities for bridges and causeways over navigable waters except (1) authority to prescribe lights and other signals on bridges and causeways for the benefit of navigation, (2) administration of bridges over the Saint Lawrence Seaway, and (3) regulation of tolls for transit across bridges. This intentionally omits mention of authority for regulation of international bridges over non-navigable waters, which is also retained in the Department of Transportation. Retention of Department of Transportation authority over international bridges over non-navigable waters is specified in the conforming amendments to the International Bridge Act of 1972 in section 4 of the bill.

This division of authority may seem confusing at first glance. But it should be quite workable in practice, as a few examples may illustrate. Any bridge over the Saint Lawrence Seaway will be under the authority of the Saint Lawrence Seaway Development Corporation (as it is now) under the specific reservation of authority over the Seaway. An international bridge over a navigable portion of the Rio Grande River will be under the authority of the Corps of Engineers (instead of the Coast Guard) under the terms of the general transfer. An international bridge over a non-navigable portion of the Rio Grande River will be under the authority of the Federal Highway Administration or the Federal Railroad Administration (as it is now) because bridges over non-navigable waters (or, more specifically, those waters not meeting the navigability criteria in the bridge statutes) are not included in the terms of the general transfer. This division of authority is made clear by specific provisions added to the bridge statutes by the conforming amendments in section 4 of the bill.

The term "navigable waters" is a special term of art under the bridge statutes. This bill will make no change in that respect. However, because the application of the bridge statutes to navigable waters has been subject to recent changes in other legislation, some explanation may be helpful. An amendment to the bridge statutes in 1982 excluded from the definition of "navigable waters" those "waters that are not subject to the ebb and flow of the tide and that are not used and are not susceptible to use in their natural condition or by reasonable improvement as a means to transport interstate or foreign commerce." (Please see section 107, Coast Guard Authorization Act of 1982, Public Law 97-322, October 15, 1982.) This excluded from the application of the bridge statutes those waters which had previously been included but which are "navigable" only by reason of their historic use, though it does not alter the Federal interest in such waters for other purposes. A 1987 amendment to the provisions on Federal highway projects in title 23 of the United States Code further excluded the bridge statutes from applicability to Federally funded highway bridges over tidal waters "used only by recreational boating, fishing, and other small vessels less than 21 feet in length." (Please see section 123, Surface Transportation and Uniform Relocation Assistance Act of 1987, Public Law 100-17, April 2, 1987.)

Section 3

Section 3 of the bill covers the housekeeping provisions necessary to the transfer. It provides flexibility for the transfer of personnel, money, and property. It also provides protection for government employees subject to transfer, specifying that they shall not be separated or reduced in grade or compensation for one year after transfer. These provisions are modeled after those used for the transfer of personnel and resources in sections 501 and 502 of the Department of Education Organization Act, Public Law 96-88 of October 17, 1979 (20 U.S.C. 3501, 3502). This section also provides for the orderly replacement of Coast Guard bridge regulations by Corps of Engineers bridge regulations. And, this section provides for the preservation of all approvals, notices, determinations, grants, contracts, permits or permit actions, regulatory actions, penalties or penalty actions, suits or claims against or by the United States or officers and agencies of the United States, or other legal rights or duties relating to bridges and causeways over navigable waters.

Section 4

Section 4 makes detailed conforming amendments to the various bridge statutes, so that they properly reflect the transfer of administration. Although there is no intent to make substantive amendments to the statutes beyond the addition or substitution of language directly related to the transfer of administration, the texts of the statutory provisions are restated in full to avoid any confusion or error which may arise from the many various references to the Secretaries concerned, and to avoid any of the uncertainty that may arise from the fact that the sections of the Code involved are non-positive codifications of provisions amended ~~numerous~~ times since the Rivers and Harbors Appropriations Act of 1899. many

Six acts are amended:

1. The Rivers and Harbors Appropriations Act of 1899
2. The Act of March 23, 1906, the "Bridge Act of 1906"
3. The Act of August 18, 1894
4. The Act of June 21, 1940, the "Truman-Hobbs Act"
5. The General Bridge Act of 1946
6. The International Bridge Act of 1972

These acts deal with five subjects, which are not neatly divided among them:

1. Approval of the location and plans for bridges and causeways over navigable waters.
2. Regulation of the operation of drawbridges over navigable waters.
3. Alteration of bridges over navigable waters determined to be unreasonable obstructions to navigation.
4. Regulation of tolls for transit across bridges over navigable waters.
5. Approval of the location and plans for international bridges.

The interplay is generally as follows:

1. Approval of the location and plans for bridges and causeways over navigable waters is governed in most part by three acts:

a. The Rivers and Harbors Appropriations Act of 1899 (33 U.S.C. 401, 502).

b. The Bridge Act of 1906 (33 U.S.C. 491-498).

c. The General Bridge Act of 1946 (33 U.S.C. 525-534).

The Rivers and Harbors Appropriations Act of 1899 and the Bridge Act of 1906 generally apply to bridges approved before August 2, 1946, and the General Bridge Act of 1946 generally applies to bridges approved after August 2, 1946. (Please see section 507 of the General Bridge Act of 1946, 33 U.S.C. 530.) However, the provisions of the Bridge Act of 1906 are made specially applicable to all international bridges, whenever approved (after 1906), whether or not they go over navigable waters, by section 2 of the International Bridge Act of 1972 (33 U.S.C. 535).

2. Regulation of the operation of drawbridges over navigable waters is governed in most part by the Act of August 18, 1894 (33 U.S.C. 494). There is also a provision on drawbridges in section 4 of the Bridge Act of 1906 (33 U.S.C. 495).

3. Alteration of bridges over navigable waters determined to be unreasonable obstructions to navigation is governed in most part by the Truman-Hobbs Act (33 U.S.C. 511-523). There are also provisions on obstructive bridges in the Rivers and Harbors Appropriations Act of 1899 and the Bridge Act of 1906.

4. Regulation of tolls for transit across bridges over navigable waters used to be governed by provisions in the Bridge Act of 1906, the General Bridge Act of 1946, and the International Bridge Act of 1972. However, all of those provisions, except section 502(c) of the General Bridge Act of 1946 (33 U.S.C. 525(c)), were repealed by section 135 of the Surface Transportation and Relocation Assistance Act of 1987, Public Law 100-17 of April 2, 1987. Section 135 of the Surface Transportation Act replaced those provisions, which had given the Secretary of Transportation detailed regulatory authority over tolls, with a general provision which simply provides that "Tolls for passage or transit over any bridge constructed under the authority of the Act of March 23, 1906 (34 Stat. 84; 33 U.S.C. 491-498), commonly known as the "Bridge Act of 1906," the General Bridge Act of 1946, and the International Bridge Act of 1972, shall be just and reasonable." The remaining provision on tolls in section 502(c) of the General Bridge Act of 1946 (33 U.S.C. 525(c)) only gives the Secretary of Transportation authority to act on applications for toll bridges when the State highway departments involved fail to act or agree.

5. International bridges are governed by the Bridge Act of 1906 (33 U.S.C. 491-498) and the International Bridge Act of 1972 (33 U.S.C. 535-535i). The interplay between these two acts is particularly inelegant. As noted above, the Bridge Act of 1906 generally applies only to bridges approved before August 2, 1946, but is made specially applicable to all international bridges, whenever approved (after 1906), whether or not they go over navigable waters, by section 2 of the International Bridge Act of 1972 (33 U.S.C. 535). This puts section 2 of the International Bridge Act in direct conflict with both (1) section 507 of the General Bridge Act of 1946 (33 U.S.C. 530), which says that "The provisions of this title [subchapter] shall apply only to bridges over navigable waters of the United States, the construction of which is hereafter approved [after August 2, 1946] under the provisions of this title [subchapter]; and the provisions of the first proviso of section 9 of the Act of March 3, 1899 (30 Stat. 1151; U.S.C. title 33, sec. 401), and the provisions of the Act entitled 'An Act to regulate the construction of bridges over navigable waters,' approved March 23, 1906 [33 U.S.C. 491-498] shall not apply to such bridges," and (2) the last sentence of section 1 of the Bridge Act of 1906 (33 U.S.C. 491), which says that "This section shall not apply to any bridge over waters which are not used and are not susceptible to use in their natural condition or by reasonable improvement as a means to transport interstate or foreign commerce." It may be assumed that these conflicts are decided in favor of section 2 of the International Bridge Act, as that is the provision of law dealing most directly with the question of how international bridges should be regulated. It is not apparent why it was decided to incorporate the Bridge Act of 1906, rather than the General Bridge Act of 1946, into the International Bridge Act of 1972. But that issue is beyond the scope of this bill.

The method generally followed throughout section 4 of this bill is to amend "Secretary of Transportation" to read "Secretary of the Army," and to add a separate provision, where appropriate, to retain the authority of the Secretary of Transportation over bridges over the Saint Lawrence Seaway and international bridges over non-navigable waters. In some places where "Chief of Engineers" is stricken, this corrects an inadvertent omission in the acts effecting the prior transfer of authority from the Corps of Engineers to the Coast Guard. Section 2(d) of "An Act to revise, codify, and enact without substantive change certain general and permanent laws related to transportation . . . ," Public Law 97-449 of January 12, 1983, generally substituted "Secretary of Transportation" for "Secretary of War" in the bridge statutes without addressing references to the "Chief of Engineers," although all "duties of the Secretary of the Army and other officers and offices of the Department of the Army" under these same statutes had already been transferred to the Secretary of Transportation by section 6(g) of the Department of Transportation Act, Public Law 89-670 of October 15, 1966. It is replaced by "Secretary of the Army" in order to comply with modern conventions for enactment of statutory authority. Delegation of authority from the Secretary of the Army to the Chief of Engineers is specifically provided for in section 2(b) of the bill. Some technical changes, e.g., "United States district attorney" to "United States Attorney," "circuit" court to "district" court, "commissioner" to "magistrate," merely confirm changes already made in the non-positive codification under separate authority (and, it may be argued, do not necessarily require bracketing and underlining in the comparative text). Finally, where "he" or "his" is used, it is changed to "the Secretary" or "the Secretary's."

DEPARTMENT OF DEFENSE

Corps of Engineers, Department of the Army

DEPARTMENT OF TRANSPORTATION

Coast Guard

Transfer of Bridge Administration Program from Coast Guard to Corps of Engineers

AGENCIES: Department of Defense, Army Corps of Engineers and Department of Transportation, Coast Guard.

ACTION: Notice

SUMMARY: All interested parties are notified that pursuant to Section _____ of Public Law _____ all functions, powers and duties of the Secretary of Transportation which had been delegated and carried out by the U. S. Coast Guard pertaining to the approval of location and plans of bridges, determination of compliance with terms and conditions of previously issued permits, regulation of the operation of drawbridges, and alteration of bridges determined to be unreasonable obstructions to navigation have been transferred to and vested in the Secretary of the Army, acting through the Chief of Engineers. Therefore, applications and inquiries pertaining to the above functions should be directed to the appropriate Corps of Engineers field office.

DATE: The effective date of this transfer is _____.

APPENDIX B

FOR FURTHER INFORMATION CONTACT: Mr. B. N. Goode, Chief Regulatory Branch, Corps of Engineers at (202) 272-0199, or Mr. Nick Mpras, Assistant Chief, Bridge Administration Division, Coast Guard, at (202) 267-0368.

SUPPLEMENTARY INFORMATION: When the Department of Transportation was created in 1967 several functions of the Army Corps of Engineers in the Rivers and Harbors Act of 1899 were transferred to Transportation. These functions were that part of the Act that related to regulating the construction of bridges and causeways. Responsibility for regulating the construction of all other structures, in or over navigable waters and for dredging and fill in navigable waters, remained with the Corps. The rationale involved in this division of responsibility was to locate all transportation related functions within the new Department of Transportation.

The Coast Guard has carried out the responsibilities for these functions within Transportation. This functional division of responsibility between the Corps and Coast Guard was initially quite effective. During the intervening years, legislation such as the Clean Water Act and National Environmental Policy Act had created an overlap of responsibility between the two agencies in that bridge and causeway construction invariably involved permitting action by both before construction could begin. This division of responsibility created a process which appeared to be unnecessarily cumbersome for the applicant as well as administratively inefficient for the Government.

The Bridge Administration Program has a distinct safety of navigation consideration woven through its three elements. Safety of navigation is a real consideration in the approval of location and plans for bridges, regulation of drawbridges and alteration of unreasonably obstructive bridges. The purpose of the bridge statutes therefore, is to protect the nation's waterways and to prevent their impairment as navigable waterways. The Army Corps of Engineers plays a significant role through its waterways improvement projects in keeping the nation's waterways open and unimpaired for the safety and use of navigation. By transferring the administration of the bridge statutes back to the Army Corps of Engineers, all construction related projects in or over the navigable waters of the United States will be regulated by a single agency.

Duplication of effort in issuing various permits and preparing environmental documentation for the same projects will now be eliminated. Applicants will apply to one agency for most of the permits required for the construction and operation of projects in the navigable waters of the United States. The confusion of which agency should be lead Federal agency for the purposes of NEPA will be eliminated, thereby avoiding delays in the processing of permits.

Reunification of all waterway construction projects under one agency will improve the overall efficiency of government and the government's responsiveness to the public.

Public Notice

All interested parties are notified that pursuant to Section __________ of Public Law _________ all functions, powers and duties of the Secretary of transportation which had been delegated and carried out by the U. S. Coast Guard pertaining to the approval of location and plans of bridges, regulation of the operation of drawbridges, and alteration of bridges determined to be unreasonable obstructions to navigation have been transferred to and vested in the Secretary of the Army, acting through the Chief of Engineers. Therefore, applications and inquiries pertaining to the above functions should be directed to the appropriate Corps of Engineers field office. A map showing the locations of the various Corps of Engineers field offices is attached.

EFFECTIVE DATE OF TRANSFER:

SUPPLEMENTARY INFORMATION:

When the Department of Transportation was created in 1967 several functions of the Army Corps of Engineers in the Rivers and Harbors Act of 1899 were transferred to Transportation. These functions were that part of the Act that related to regulating the construction of bridges and causeways. Responsibility for regulating the the construction of all other structures in or over navigable waters and for dredging and filling in navigable waters remained with the Corps. The rationale involved in this division of responsibility was to locate all transportation related functions within the new Department of Transportation.

The U. S. Coast Guard has carried out the responsibilities for these functions within Transportation. This functional division of responsibility between the Corps and Coast Guard was initially quite effective. During the intervening years, legislation such as the Clean Water Act and National Environmental Policy Act had created an overlap of responsibility between the two agencies in that bridge and causeway construction invariably involved permitting action by both before construction could begin. This division of responsibility created a process which appeared to be unnecessarily cumbersome for the applicant as well as administratively inefficient for the government.

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Reunification of all waterway construction projects under one agency will improve the overall efficiency of government and the government's responsiveness to the public.

PROPOSED BRIDGES TRANSFER SCHEDULE

Proposed schedule of actions and responsibilities to accomplish the transfer of personnel, with minimum time frames, is:

Day 1:

a. Coast Guard makes general announcement of decision and freezes permanent filling of affected positions (except by exercise of statutory reemployment rights).

b. Concurrently, Coast Guard sends canvass letters to all affected employees informally requesting them to select cities, in rank order, to which they would prefer transfer. Preference would be given to those employees with seniority (i.e., higher retention standing), with the provision that management would not ordinarily displace employees presently in an area where the Corps will retain civilians, by the movement of a person from outside that area. Employees are given 30 days to respond.

Day 31: Coast Guard reviews employee preference data.

Day 41: Coast Guard makes formal offers to transfer; minimum 60-day notice with 30-day response time.

Day 72: Coast Guard receives replies; prepares travel orders if applicable; proposes separation of those declining offer.

Day 82: Coast Guard amends offers to employees, using alternative (i.e., preferred) locations which occur because of retirements, declinations, etc. Employees given 10 days to respond.

Day 92: Employee responses to amended offer due; final list of personnel transferring or separating completed.

Day 101: Sixty-day notice effective day reached.

Day 120: Personnel transfer complete.

APPENDIX D

Memorandum

US Department
of Transportation

**United States
Coast Guard**

Subject BRIDGE ADMINISTRATION TRANSFER

Date DEC 8 1987

12351

Reply to
Attn of G-PC-1

From Chief, Civilian Personnel Division

To Chief, Bridge Administration Division (G-NBR)

1. Enclosed for your information is a copy of a recent letter we have directed to our affected civilian personnel offices, informing them of the possibility of the subject transfer, and advising them to undertake preparatory steps.

2. As part of the preparation process, we will need your help (you may want to bring this up to Army in one of the Corps of Engineers meetings) in obtaining information about the specific locations where the Army Corps of Engineers will be employing civilians. Office of Personnel Management (OPM) regulations (see second enclosure) require that employees, when canvassed, be provided a wide range of information about the locations involved in the transfer. Information should include such matters as available educational and health facilities, religious institutions, and other quality of life aspects. It will be necessary to get this information on each of the places where our civilians may be asked to relocate, including places where Coast Guard already has employees, if others will be asked to move there.

3. The information obtained will be made available to interested civilians during the canvass process. If possible, collection of the data should begin substantially ahead of any actual need to canvass, in order to be sure we will have it in time, once it's needed.

4. Questions, if any, should be addressed to Ms. Nancy Arnold (FTS 267-1706).

THOMAS F. FISHER

Encl: (1) G-PC Ltr 12351 of 8 Dec 87
(2) Federal Personnel Manual Chapter 351, page 102

U.S. Department
of Transportation
**United States
Coast Guard**

Commandant
United States Coast Guard

Washington, D.C. 20593-[illegible]
Staff Symbol G-PC-1
Phone (202) 267-1706

12351

From: Commandant
To: Commander, Maintenance and Logistics Command Atlantic - New York (p)

Subj: BRIDGE ADMINISTRATION TRANSFER

1. This letter provides information and serves as an advisory to civilian personnel offices in preparation for an expected transfer of function of the bridge administration program.

2. Enclosure (1) is a recent letter sent by Commandant (G-NBR) to program elements in the field. The letter addresses the status of the proposed transfer, and advises that employees will be canvassed for their preferences once legislation has been passed. Enclosure (2) is a general plan devised for effecting the transfer, and enclosure (3) is an implementation schedule. Civilian personnel officers who service affected employees should read these enclosures carefully.

3. Commandant (G-PC) has worked over a number of months with G-NBR and G-L, as well as with the Army Corps of Engineers, in preparation for this transfer. At this point, no effective date for the transfer can be predicted, as it is still dependent upon the legislative process.

4. Civilian personnel officers are advised of several important steps taken by the Army Corps of Engineers to promote a high rate of acceptances among Coast Guard civilians asked to transfer. To begin with, the proposed legislation will grant a significant element of job security to those who accept transfer. A transferee cannot be downgraded or separated for one year following transfer. In addition, the Corps has decided not to stipulate required grade levels or series at any locations where it will employ civilians in the program, with the exception that there will be some grade requirements for those employed at Headquarters. This means, in essence, that the Corps will accept our personnel in their present titles, series, and grades, at any of their locations (Headquarters, again, excepted).

5. As planned, actual employee assignments, then, would be based largely on employee choice (as expressed in a canvass letter upon passage of legislation), coupled with retention standing. No one currently in a commuting area where the Army will continue to employ civilians would be forced to move against their choice in favor of someone coming in from outside. Among those already living in a commuting area, competition for continuing positions within the commuting area would be based on retention standing. Employees who must move would compete Coast Guard-wide among themselves for locations of preference (that is, preference as determined by the canvass letter responses of employees). Competition would be based upon retention standing. (Potentially, program needs could also play a role.) Since the Corps has expressed no requirements with respect to job type or grade, this means that employees who have expressed an equal desire to move to a given location, would compete for offers to that location strictly on the basis of retention standing, without consideration of grade. To rank order responding employees in terms of choice and retention standing, will require that civilian personnel offices in the field submit employee replies to the canvass to Commandant (G-PC) for tabulation, once we have actually conducted our canvass.

1

6. No final decision has been made at this point on the specific form of the canvass letter. Several drafts have been written, with one of the major unresolved points centering upon whether or not employees will be held firmly to initial negative replies.

7. Civilian personnel officers, as noted, should acquaint themselves with the materials enclosed. In addition, they should determine those personnel whom they service who will be identified with the function. It has been determined that this movement meets the definition of a transfer of function.

8. Questions, if any, should be addressed to Ms. Nancy Arnold (FTS 267-1706).

THOMAS F. FISHER
By direction

Encl: (1) G-NBR Ltr 16590 of 1 Dec 87
(2) General Plan for Effecting Transfer
(3) Implementation Schedule

U.S. Department
of Transportation

**United States
Coast Guard**

Commandant
United States Coast Guard

Washington, D.C. 20593-0001
Staff Symbol: (G-NBR/14)
Phone: 202-267-0368

16590

DEC - 1 1987

From: Commandant
To: Distribution

Subj: TRANSFER OF BRIDGE ADMINISTRATION PROGRAM

1. Approximately one year ago, the Coast Guard proposed, and the Army Corps of Engineers agreed, to transfer the Bridge Administration Program back to the Corps. Positions within your command have been identified with this function. It is important, therefore, that you and your staff, including the affected employees, have a clear understanding of the progress that has been made toward effecting this transfer. This will help you and those employees affected to plan for the future.

2. While actual transfer is dependent upon the passage of legislation, an interagency working group was formed to develop an implementation plan, to facilitate the orderly transfer of the program between agencies. As part of this plan, the Corps of Engineers identified the positions that will be needed at each of its field offices (see enclosure (1)). This identification was made on the basis of the Coast Guard's experience in terms of volume and complexity of work in the various geographic areas. Based on the Corps' plans as shown in the enclosure, it is clear that, upon passage of the legislation, some employees will be able to remain in their current locations, while many others will be required to relocate.

3. It is the desire of the Coast Guard and the Corps of Engineers to facilitate, as much as possible, the needs of each affected employee. Employee assignments, therefore, will be based, to the extent possible, both on choice and employee retention standing, in addition to program needs. (A short explanation of retention standing is provided in enclosure (2).) From among employees in a given georgaphic area, those who have the highest retention standing will have the first opportunity to remain in their current location, if the Corps has positions in that location.

4. It is also important to understand that, under the legislation as proposed, employees identified with the function, who accept transfer, *will be transferred in their current title, series, and grade. In addition, the proposal requires that the Army Corps of Engineers not separate employees or reduce them in grade for one year after the date on which the employee is transferred.*

5. To determine employee choices, we plan to canvass all who have been identified with the function, once the legislation has passed. Employees will be given an opportunity at that time to rank order their preferences among cities that have been shown on the enclosure. We do not plan to canvass employees at this point in time, since we cannot predict accurately the passage of the legislation, and employee opinions may change over the course of time.

6. The legislative proposal has received clearance from the Coast Guard, the Department of Transportation, and the Corps of Engineers, and is now being reviewed by the Office of Management and Budget (OMB). Following OMB's review, the legislative proposal will be submitted for Congressional action. Presently, we have no information as to how soon Congressional action will be taken.

ENCLOSURE(1)

Subj: TRANSFER OF BRIDGE ADMINISTRATION PROGRAM

7. It is our intention to keep you informed as events develop. Please ensure that all affected individuals receive a copy of this letter. Should you or they have any questions concerning this matter, please contact your servicing civilian personnel office.

JM Seabrooke
J. M. SEABROOKE
By direction

Encl: (1) Personnel Distribution
(2) Explanation of Retention Standing

Dist: All Districts (o)

Personnel Distribution

U.S.C.G. Headquarters Bridge Administration Div	#FTE 15
U.S.C.G. Dist (Location)	
1st Boston	2
2nd St. Louis	7
3rd New York	10
5th Portsmouth	3
7th Miami	5
8th New Orleans	4
9th Cleveland	3
11th Long Beach	1
12th Alameda	2.5*
13th Seattle	2
17th Juneau	1
	55.5

* One person in this office works 20 hours a week.

HQ USACE	#FTE
DAEN-CWO-N	4
DAEN-LCE-B	3
New England Division	2
Pacific Ocean Division	0
Memphis District	1
New Orleans District	2
St. Louis District	1
Vicksburg District	0
Kansas City District	0
Omaha District	1
Baltimore District	1
New York District	3
Norfolk District	2
Philadelphia District	2
Buffalo District	1
Chicago District	1
Detroit District	1
Rock Island District	0
St. Paul District	1
Alaska District	2
Portland District	2
Seattle District	2
Walla Walla District	0
Huntington District	0
Louisville District	1
Nashville District	1
Pittsburgh District	1
Charleston District	2
Jacksonville District	4
Mobile District	0
Savannah District	0
Wilmington District	2
Los Angeles District	3
Sacramento District	1
San Francisco District	2
Albuquerque District	0
Fort Worth District	1
Galveston District	2
Little Rock District	2
Tulsa District	1
	55

Enclosure (I)

EXPLANATION OF RETENTION STANDING

Four factors determine retention standing:

(1) Tenure (or type of appointment):

I - Career
II - Career conditional
III - Indefinite, term and status employees, and employees serving on temporary appointments pending establishment of registers.

(2) Veteran's preference or subgroup:

AD - Veterans with a service-connected disability of 30% or more
A - All others with veterans preference for RIF purposes
B - All those without veterans preference for RIF purposes

(3) Service Computation Date (SCD):

Within each subgroup employees are ranked by SCD which reflects total federal service (military and civilian), adjusted by performance (see below)

(4) Performance:

Employees are given additional service credit based on the average value of the last three annual performance ratings of record received during the three-year period prior to the date of issuance of specific RIF notices.

The values assigned to individual ratings are:

Outstanding - 20 years
Exceeds fully successful - 16 years
Fully successful - 12 years

No credit is given for ratings below "Fully Successful." Missing ratings are credited with the same value as a fully successful rating.

Enclosure (2)

GENERAL PLAN FOR EFFECTING BRIDGE ADMINISTRATION TRANSFER

1. Actions and steps required to effect the transfer have been addressed by the schedule presented in enclosure (1).

2. Canvass letters will be distributed by the cognizant individual civilian personnel offices. Letters will follow the format established by Commandant (G-PC). (Only selected Headquarters employees for whom offers will be made that are grade-specific will be treated differently.) Responses to letters will be coordinated through G-PC in order to ensure on overall crediting of retention standing in a manner required to determine formal offers that are to be made (see below).

3. As agreed by the Army Corps of Engineers, with the exception of certain Headquarters positions, all other positions are interchangeable in terms of grades and duties. Consequently, employees will be canvassed regarding their desire to relocate to any of the locations (Headquarters excepted) where the Army will have positions. Under the proposed legislation, those accepting transfer will be transferred in their current title, series, and grade. In addition, the Corps will not separate employees or reduce them in grade for one year after the date on which the employee is transferred.

4. Only employees identified with the function will be canvassed. Civilian personnel offices will be asked in the near term to identify affected persons and to maintain a list, so that members may be readily surveyed when required. Upon canvass, employees will be informed of their rights, will be provided information about the locations of choice (G-N will seek to acquire this information preparatory to issuing canvass letters), and will be given an opportunity to rank order their locations of preference. Pending decision of management, employees who respond negatively to the canvass may be held to their decision, provided that they are advised of this possibility when issued their canvass letters. Based on the replies, formal letters of offer will be prepared and issued. Coast Guard will formally propose, under adverse action procedures, the separation of those employees who decline relocation outside their commuting areas.

RETENTION STANDING AND HOW IT WILL APPLY IN MAKING FORMAL OFFERS TO EMPLOYEES IN THE BRIDGE ADMINISTRATION TRANSFER OF FUNCTION

MAKING FORMAL OFFERS. Formal offers to employees who are identified with the bridge administration function will be made on or about (date). Management will consider three factors in making offers to employees at that time: (1) the preference of the individual employee, as formally expressed on the **Preference Location Form**, (2) the employee's **retention standing**, and (3) the needs of management. The factors which together determine an employee's retention standing are explained at the bottom of this page.

DETERMINING WHO WILL REMAIN AT THE PRESENT LOCATION. In some cases, the Army Corps of Engineers will continue one or more positions at locations where Coast Guard presently has employees in the bridge administration function. (This can be determined by looking at the cities listed at the bottom of the Preference Location Form.) When this is the case, employees presently located in the commuting area will compete on the basis of their retention standing (see below) to stay in that location, unless they have indicated, on their Preference Location Form, a *stronger* (higher ranked) desire to move elsewhere, and management agrees.

DETERMINING WHO WILL BE SELECTED FOR MOVEMENT TO PARTICULAR LOCATIONS. To the extent possible, employee preferences will be observed when making offers for movements. When two or more employees have indicated equal preferences (i.e., the same rank choice) for a location, competition will be decided on the basis of retention standing. However, management will not relocate one employee to take the position of another who is already employed in the commuting area of choice, except upon the agreement of both employees and management.

ENCLOSURE(2)

PROPOSED BRIDGES TRANSFER SCHEDULE

Proposed schedule of actions and responsibilities to accomplish the transfer of personnel, with minimum time frames, is:

Day 1:

a. Coast Guard makes general announcement of decision and freezes permanent filling of affected positions (except by exercise of statutory reemployment rights).

b. Concurrently, Coast Guard sends canvass letters to all affected employees informally requesting them to select cities, in rank order, to which they would prefer transfer. Preference would be given to those employees with seniority (i.e., higher retention standing), with the provision that management would not ordinarily displace employees presently in an area where the Corps will retain civilians, by the movement of a person from outside that area. Employees are given 30 days to respond.

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Day 92: Employee responses to amended offer due; final list of personnel transferring or separating completed.

Day 101: Sixty-day notice effective day reached.

Day 120: Personnel transfer complete.

ENCLOSURE(3)

b. Informing employees. OPM encourages agencies to share any available information about how and why employees are identified for transfer with the function. In order to assist employees who must decide whether or not to transfer to the new geographic location, the agency should give employees information about the new location of the activity, the timing of the transfer, the gaining organization, the new positions, and the assumptions upon which this information is subject to change. Also, employees frequently ask for information concerning the availability and cost of housing, and the Government's obligations to pay travel and moving expenses.

c. Alternative actions. Section 1-3 of this chapter covers various steps used by agencies to minimize the impact of reduction-in-force actions. When used in conjunction with canvass letters to survey how many employees wish to move with their work, many of these actions may also assist agencies in carrying out a transfer of function to a different geographic location. For example, the use of volunteers (discussed in section 10-5d of this chapter) who would prefer relocation, in lieu of employees identified with the transferring function, could reduce the number of involuntary separations. Also, when a function is dispersed to more than one location, the agency may be able to offer a choice of these locations to employees identified for transfer. Finally, the agency may be able to offer identified employees reassignment to other geographic areas not affected by the transfer of function.

d. Outplacement efforts. OPM encourages agencies to undertake positive outplacement programs to assist employees who are faced with separation because they chose not to transfer with the function, or

From: Civilian Personnel Officer
To: Affected Employees
Subj: CANVASS LETTER FOR TRANSFER OF FUNCTION

Ref: (a) Public Law, etc., granting authority for transfer
(b) FPM Chapter 351, Reduction in Force
(c) FPM 752, Adverse Actions

1. Reference (a) granted the authority to transfer the bridge administration program from the U.S. Coast Guard to the U.S. Army Corps of Engineers. As a result, all full-time and part-time positions identified with the bridge administration function will be transferred to the Army Corps of Engineers on or about (date). You have been identified as an employee in this function. Employees, including yourself, who accept transfer will be transferred in their *current title, series, and grade.* In addition, the law transferring the bridge administration function requires that the Army Corps of Engineers *not separate employees or reduce them in grade for for one year* after the date on which the employee is transferred.

2. While formal job offers will be made to affected employees on or about (date), we are canvassing employees at this point in time to assess, on a preliminiary basis, employee willingness to transfer, and to gauge employee preferences regarding locations of transfer. We are aware of the trauma and disruption which can be caused by an unanticipated transfer. As a result, we are making every effort to inform you at the earliest practical date.

3. The Coast Guard and Army Corps of Engineers have worked closely together in order to accomodate, to the extent possible, Coast Guard employees affected by this transfer. The Corps has identified locations or cities where positions are needed. Coast Guard must identify employees who will be transferred to these locations. From the information provided by the Corps, it is clear that some employees will be able to remain in their current locations, but the majority of employees will be required to relocate outside their existing commuting areas. Your response to this canvass letter will be weighed in making these assignments. Employee assignments will be based, to the extent possible, both on choice and employee retention standing. Employees who have the highest retention standing will have the first opportunity to remain in their current location, if the Corps has positions in that location. (Retention standing, and the method that will be used in determining formal offers, is explaining on the back of enclosure (1).)

4. To assist in our planning effort, we request that you complete, sign, and return the enclosed Employee Preference Location form by (date) to (location). **If we have not received your reply by (date), we will be forced to determine your formal offer without the benefit of a statement of your personal preferences.**

5. It is essential for you to have a clear understanding of the importance of the reply you give to this canvass letter. While your response to this canvass is nonbinding, it will provide a basis for management to make a determination regarding your formal offer which you will receive on or about (date). For that reason, you should consider all your options carefully when completing the Employee Preference Location Form. **To better help you understand the complete process, we have also provided a second enclosure which spells out the rights you will have when you are actually presented a formal offer. These rights, as they apply, will be specifically reiterated when you are provided your formal offer.**

6. To help you make a decision, you may wish to see information about the locations where the Army Corps of Engineers will be employing persons in the bridge administration program. The cities are listed at the bottom of the Employee Preference Location Form. Information about the various locations is available in (location). Further information, including access to the above references and civilian personnel regulations regarding transfer of function, may be obtained from (name, phone, location).

I acknowledge receipt of this letter.

PREFERENCE LOCATION FORM

THIS FORM SHOULD BE COMPLETED AND RETURNED TO (LOCATION) BY (DATE). FAILURE TO RETURN THIS FORM ON TIME MEANS THAT MANAGEMENT WILL NOT HAVE A STATEMENT OF YOUR PREFERRED LOCATIONS WHEN CONSIDERING EMPLOYEE ASSIGNMENTS.

INSTRUCTIONS:

Please rank order (top to bottom) the cities to which you would prefer your location. You are advised that, while your response to this form is nonbinding, your answer will be used in the planning prosess and will be considered in constructing your formal offer of transfer of function. The formal offer will be made on or about (date). If your first choice is to retain your current location, rank your current location first, *if it is among the cities listed at the bottom of this page.* Only these cities will have bridge administration positions with the Army Corps of Engineers. Although there is no requirement to list a particular number of cities, it is recommended that you list *all* – and only – those cities to which you would *seriously consider* relocating. Listing additional cities beyond your first choice will in no way rule you out for consideration for your first, or higher level, choices. We have therefore provided room for you to rank order ten different locations. On the other hand, if you expect you will not accept transfer outside your present commuting area, you need not list any additional cities. In that case, a formal offer will be made to you, *but without your input on your locations of preference.*

PLEASE REMEMBER TO SIGN YOUR FORM.

MY RANK ORDER OF PREFERRED (TOP TO BOTTOM)
LOCATIONS IS:

1. ______________________________
2. ______________________________
3. ______________________________
4. ______________________________
5. ______________________________
6. ______________________________
7. ______________________________
8. ______________________________
9. ______________________________
10. ______________________________

(SIGNATURE AND DATE)
(Please remember to sign and date your form.)

THE FOLLOWING IS A LIST OF CITIES WHERE THE ARMY CORPS OF ENGINEERS WILL HAVE BRIDGE ADMINISTRATION POSITIONS:

Anchorage, AK
Baltimore, MD
Buffalo, NY
Charleston, S.C.
Chicago, IL
Detroit, MI
Ft. Worth, TX

Galveston, TX
Jacksonville, FL
Little Rock, AR
Los Angeles, CA
Louisville, KY
Memphis, TN
Nashville, TN

New Orleans, LA
New York City, NY
Norfolk, VA
Omaha, NB
Philadelphia, PA
Pittsburg, PA
Portland, OR

Sacramento, CA
St. Louis, MO
St. Paul, MN
San Francisco, CA
Seattle, OR
Tulsa, OK
Wilmington, NC

CANVASS LETTER FOR SENIOR EMPLOYEES WHO DO NOT HAVE TO MOVE

From: Civilian Personnel Officer
To: Affected Employees
Subj: CANVASS LETTER FOR TRANSFER OF FUNCTION

Ref: (a) Public Law, etc., granting authority for transfer
(b) FPM Chapter 351, Reduction in Force
(c) FPM 752, Adverse Actions

1. Reference (a) ~~granted the authority to~~ transferred the bridge administration program from the U.S. Coast Guard to the U.S. Army Corps of Engineers. As a result, all full-time and part-time positions identified with the bridge administration function will be transferred to the Army Corps of Engineers on or about (date). You have been identified as an employee in this function. Employees, including yourself, who transfer will be transferred in their *current title, series, and grade* **(INSTEAD OF CURRENT, INDICATE CURRENT AS OF DATE OF TRANSFER?).** In addition, the law transferring the bridge administration function requires that the Army Corps of Engineers *not separate employees or reduce them in grade for for one year* after the date on which the employee is transferred.

2. In your case the transfer does not involve a geographical relocation, and you will be transferred on or about the date indicated. If, however, you would prefer that your transfer be made to a location outside your current commuting area, you may indicate your preference by completing the enclosed preference location form. Your request will be considered, and a reply will be made on or about (date of formal offers).

3. We realize the importance this organizational change represents to you, and will keep you informed of significant events. If you have questions, you should contact your civilian personnel officer at (location, phone).

Encl: (1) Preference Location Form

I acknowledge receipt of this letter.

(Signature & date)

From: Civilian Personnel Officer
To: Affected Employees
Subj: CANVASS LETTER FOR TRANSFER OF FUNCTION

Ref: (a) Public Law, etc., granting authority for transfer
(b) FPM Chapter 351, Reduction in Force
(c) FPM 752, Adverse Actions

1. Reference (a) granted the authority to transfer the bridge administration program from the U.S. Coast Guard to the U.S. Army Corps of Engineers. As a result, all full-time and part-time positions identified with the bridge administration function will be transferred to the Army Corps of Engineers on or about (date). You have been identified as an employee in this function. Employees, including yourself, who accept transfer will be transferred in their *current title, series, and grade*. In addition, the law transferring the bridge administration function requires that the Army Corps of Engineers *not separate employees or reduce them in grade for for one year* after the date on which the employee is transferred.

2. While formal job offers will be made to affected employees on or about (date), we are canvassing employees at this point in time to assess, on a preliminiary basis, employee willingness to transfer, and to gauge employee preferences regarding locations of transfer. We are aware of the trauma and disruption which can be caused by an unanticipated transfer. As a result, we are making every effort to inform you at the earliest practical date.

3. The Coast Guard and Army Corps of Engineers have worked closely together in order to accomodate, to the extent possible, Coast Guard employees affected by this transfer. The Corps has identified locations or cities where positions are needed. Coast Guard must identify employees who will be transferred to these locations. From the information provided by the Corps, it is clear that some employees will be able to remain in their current locations, but the majority of employees will be required to relocate outside their existing commuting areas. Your response to this canvass letter will be weighed in making these assignments. Employee assignments will be based, to the extent possible, both on choice and employee retention standing. Employees who have the highest retention standing will have the first opportunity to remain in their current location, [illegible] the Corps has positions in that location. **(See enclosure (1) for an explanation of retention standing.)**

4. To assist in our planning effort, we request that you respond by (date) regarding whether you would consider transferring with your function or whether you would decline an offer *if* the transfer means moving to another geographic location. Please complete the form shown under enclosure (1) to indicate your choice. Enclosure (2) is a Preference Location form which should be completed only if you have indicated a willingness, in enclosure (1), to transfer. The completed form(s) should be returned to the civilian personnel office (see address indicated on the forms). If we have not received your reply by (date), we will conclude that you have declined transfer to a position outside your present commuting area.

5. It is essential for you to have a clear understanding of the importance of the reply you give to this canvass letter. You are being asked whether you would accept or decline an offer to a position *outside* your commuting area. The rights addressed below for employees who decline an offer (e.g., severance pay, outplacement assistance, discontinued service retirement, etc.) apply only if you are offered a position outside your present commuting area. Neither your general acceptance nor declination of this initial canvass offer will keep you from being considered for a job offer in your present commuting area within the bridge administration function, if there are positions. (The only way to rule yourself out from consideration for positions in your commuting area is to so specify in the appropriate place on enclosure (1), and to indicate that you are only interested in positions outside your present commuting area.) To make clear your rights and the importance that you give serious consideration to this canvass letter, you are advised that:

a. **If you *decline* this initial offer,** *the Coast Guard has the right to propose your separation for failure to accept functional transfer if it is determined that your only offer is to a position outside your current commuting area.* In such case, you would not be entitled to a formal job offer for a position in your function but outside your commuting area, and separation action would be taken in accordance with the procedures outlined in reference (c). Such separation would not be effective any sooner than the date of the transfer of function which will occur on or about (date).

By electing not to move, you would become immediately eligible for both Office of Personnel Management and Coast Guard outplacement assistance programs. You should contact (name) at (location) for more information on these programs.

Also, if you elect not to transfer and you have 25 years of creditable service, regardless of your age, or if you are at least 50 years of age with 20 years of creditable service (**DO THE CONDITIONS CHANGE UNDER FERS?**), you may be eligible for discontinued service retirement. If interested and eligible, you should obtain specific information and assistance by contacting (name, phone, location). If you are eligible for optional retirement with immediate annuity, you may retire.

If separation action is necessary, you may be eligible to receive severance pay which is computed according to a formula based on your salary, age, and length of service. You will receive, on a biweekly basis, an amount slightly larger than your current biweekly pay since certain deductions, such as retirement, will not be made. These biweekly payments will continue until your severance pay is exhausted or until you are reemployed by the Federal government. The total severance pay may not exceed 1 year's pay.

b. **If you accept this initial canvass offer,** you indicate a willingness to transfer with the function to a commuting area outside your current commuting area. You are assurred that you will receive a subsequent offer in your current title, series, and grade, and that your statement regarding your preferred duty location (enclosure (2)) will be considered when making your offer. (We repeat, as indicated earlier, that your general acceptance of this offer will not keep you from being considered for employment with the function in your own commuting area, unless you specifically indicate, in the appropriate place on enclosure (1), that you want a position only outside the commuting area.) Your acceptance of this initial offer is not binding, and you may later change this initial acceptance without penalty. However, a subsequent declination of the offer will not extend your active duty status regardless of whether Coast Guard chooses to separate you for failure to accept transfer outside your current commuting area,. or Corps of Engineers chooses to separate you for abandonment of position.

If you accept this initial offer, you will not qualify for immediate placement assistance at your current duty location through Office of Personnel Management or Coast Guard placement assistance programs.

If you accept this initial offer but do not complete enclosure (2), the listing of preferred locations, an offer will be made on the basis of the needs of management.

c. **If you indicate you elect to retire,** you may retire if you are eligible for optional retirement. However, you will not be eligible for discontinued service retirement if you are eventually offered a position within your current commuting area.

6. To help you make a decision, you may wish to see information about the locations within the geographic areas of the Army Corps of Engineers which correspond to (CG district, command, etc. of the employee). This information is available in (location).

7. Please consider all your options carefully before making a decision. Further information, including access to the above references and civilian personnel regulations regarding transfer of function, may be obtained from (name, phone, location).

I acknowledge receipt of this letter.

(Signature & date)

ACCEPTANCE/DECLINATION OF INITIAL OFFER

NOTE: RETURN THIS FORM TO (NAME AND LOCATION) BY (DATE). FAILURE TO RETURN THE FORM BY THIS DATE WILL BE CONSIDERED A DECLINATION OF THE TRANSFER.

From:
To:

Subj: ACCEPTANCE/DECLINATION OF INITIAL OFFER

Ref: (a) Canvass Letter of Transfer of Function of (date)

1. In accordance with reference (a), I hereby (check one of the bold print options -- remember that you *must* check one of the options presented in question 1; if you do not, it will be assumed that you decline this initial offer of transfer):

___ a. **Accept this initial offer to transfer with my function to another commuting area. I understand that my acceptance of this initial offer does not preclude my being considered for bridge administration positions within my current commuting area.**

I also understand that, by accepting this initial offer, I do not qualify for immediate placement assistance through Office of Personnel Management (OPM) or Coast Guard placement assistance programs. I understand further that my acceptance of this initial offer is not binding, and that I may later change this acceptance without penalty. I also understand that a subsequent delination of an offer will not extend my active duty status regardless of whether Coast Guard chooses to separate me for failure to transfer outside my commuting area, or Army Corps of Engineers chooses to separate me for abandonment of position.

In making this acceptance, I (check one option which applies):

___ (1) Have completed and attached my list of preferred locations of transfer.

___ (2) Am not attaching a list of preferred locations. In so doing, I am aware that management will make an assignment without having input about my specific location(s) of preference.

___ b. **Accept this initial offer to transfer with my function to another commuting area. I wish only to be considered for positions outside my present commuting area – I do not wish to be considered for positions within my present commuting area, if possible.**

I also understand that, by accepting this initial offer, I do not qualify for immediate placement assistance through Office of Personnel Management (OPM) or Coast Guard placement assistance programs. I understand further that my acceptance of this initial offer is not binding, and **that I may later change this acceptance without penalty.** I also understand that a subsequent delination of an offer will not extend my active duty status regardless of whether Coast Guard chooses to separate me for failure to transfer outside my commuting area, or Army Corps of Engineers chooses to separate me for abandonment of position. **(WHAT IF HIGHEST STANDING PERSON SAYS YES TO THIS AND THEN LATER CHANGES MIND? DO WE CHANGE SOMEONE ELSE'S OFFER, OR JUST GIVE THIS PERSON AN OFFER OUTSIDE THEIR COMMUTING AREA? HOW'S THIS RELATE TO "WITHOUT PENALTY?" I THINK THE ANSWER IS THAT THE PERSON HAS RULED HIMSELF OUT – HE HAS *DECLINED* AN OFFER TO BE CONSIDERED FOR STAYING. TALK TO GLENNON?)**

PREFERENCE LOCATION FORM

NOTE: Do not complete this form if you indicated, in your acceptance/declination of initial offer form, that you have declined the initial offer to relocate.

INSTRUCTIONS:

Please rank order (top to bottom) the cities to which you would prefer your location. If your first choice is to retain your current location, rank your current location first, if it is among the cities listed at the bottom of this page. Although there is no requirement to list a particular number of cities, it is recommended that you list *all* those cities to which you would seriously consider relocating. We have provided room for you to rank order a dozen different locations. PLEASE REMEMBER TO SIGN YOUR FORM.

MY RANK ORDER OF PREFERRED (TOP TO BOTTOM)
LOCATIONS IS:

1. ______________________________
2. ______________________________
3. ______________________________
4. ______________________________
5. ______________________________
6. ______________________________
7. ______________________________
8. ______________________________
9. ______________________________
10. ______________________________
11. ______________________________
12. ______________________________

(SIGNATURE AND DATE)
(Please remember to sign and date your form.)

THE FOLLOWING IS A LIST OF CITIES WHERE THE ARMY CORPS OF ENGINEERS WILL HAVE BRIDGE ADMINISTRATION POSITIONS:

Anchorage, AK
Baltimore, MD
Buffalo, NY
Charleston, S.C.
Chicago, IL
Detroit, MI
Ft. Worth, TX
Galveston, TX
Jacksonville, FL
Little Rock, AR
Los Angeles, CA
Louisville, KY
Memphis, TN
Nashville, TN
New Orleans, LA
New York City, NY
Norfolk, VA
Omaha, NB
Philadelphia, PA
Pittsburg, PA
Portland, OR
Sacremento, CA
St. Louis, MO
St. Paul, MN
San Francisco, CA
Seattle, OR
Tulsa, OK
Wilmington, NC

THIS FORM SHOULD BE COMPLETED AND RETURNED, TOGETHER WITH YOUR COMPLETED ACCEPTANCE/REJECTION FORM, TO (LOCATION) BY (DATE). FAILURE TO RETURN THIS FORM ON TIME MEANS THAT MANAGEMENT WILL NOT HAVE A STATEMENT OF YOUR PREFERRED LOCATIONS WHEN CONSIDERING EMPLOYEE ASSIGNMENTS.

Personnel Distribution

U.S.C.G. Headquarters	#FTE
Bridge Administration Div	15
U.S.C.G. Dist (Location)	
1st Boston	2
2nd St. Louis	7
3rd New York	10
5th Portsmouth	3
7th Miami	5
8th New Orleans	4
9th Cleveland	3
11th Long Beach	1
12th Alameda	2.5*
13th Seattle	2
17th Juneau	1
	55.5

* One person in this office works 20 hours a week.

HQ USACE	#PTE
DAEN-CWO-N	4
DAEN-ECE-B	3
New England Division	2
Pacific Ocean Division	0
Memphis District	1
New Orleans District	2
St. Louis District	1
Vicksburg District	0
Kansas City District	0
Omaha District	1
Baltimore District	1
New York District	3
Norfolk District	2
Philadelphia District	2
Buffalo District	1
Chicago District	1
Detroit District	1
Rock Island District	0
St. Paul District	1
Alaska District	2
Portland District	2
Seattle District	2
Walla Walla District	0
Huntington District	0
Louisville District	1
Nashville District	1
Pittsburgh District	1
Charleston District	2
Jacksonville District	4
Mobile District	0
Savannah District	0
Wilmington District	2
Los Angeles District	3
Sacramento District	1
San Francisco District	2.5
Albuquerque District	0
Fort Worth District	1
Galveston District	2
Little Rock District	2
Tulsa District	1
	55.5

Note: A determination of numbers of personnel transferring from any specific Coast Guard district to Corps divisions or districts cannot be made until all personnel actions are final.

APPENDIX E

3 0 AUG 1988

MEMORANDUM FOR THE RECORD

SUBJECT: Meeting with Navigation Interests to Discuss Proposed Bridge Transfer.

1. On 24 August 1988 members of Corps and Coast Guard met with representatives of the Coast Guard Congressional Subcommittee, AWO and BOAT/US (attendees list attached) to discuss the proposed transfer of the bridge adminstration program from the USCG to the Corps. The purpose of the meeting was to discuss the issues raised by Mr. Lehman (AWO) at the Congressional Subcommittee hearing on 3 August 1988, regarding the operation and regulation of drawbridges. More specifically, Mr. Lehman is concerned that the Corps will not be as available as the USCG to towboat operators and others in the event of an emergency involving the opening of drawbridges

2. Capt. Seabrooke opened the meeting with the statement that the Coast Guard will continue to do business as usual and will continue to be the primary POC in the event of an emergency on a waterway. The commmercial operator would call the USCG district which would radio a Broadcast Notice to Mariners followed by the distribution of a Local Notice of Mariners. The USCG would call the appropriate Corps officials. The Corps would contact the bridge owner/ operator for appropriate action. The USCG and Corps are prepared to enter into a MOA on this matter.

3. The attendees representing navigation interests expressed concern that operators are accustomed to dealing with several "known" USCG personnel, (some they call at home in the middle of the night) in fewer USCG districts. The Corps with 37 districts will add confusion to the situation. Several other problems and possible solutions to those problems were discussed. Other questions concerned how the Corps will handle [illegible] drawbridge regulations and what the impact will be on pleasure boaters.

4. The Corps and Coast Guard representatives presented several procedures to address the navigation interests concerns. The attendees agreed that it would be prudent to prepare a document outlining the planned procedures to be used by the USCG/Corps in an emergency situation. For this purpose another meeting was scheduled for 29 August 1988 with the USCG,Corps and AWO.

Sam Collinson

Sam Collinson

30 AUG 1988

MEMORANDUM FOR THE RECORD

SUBJECT: Meeting with USCG and AWO to Discuss Drawbridge Regulation

1. On 29 August 1988, the following named personnel met to document specific proposals and agreements that were discussed at the previous meeting on 24 August 1988. The specific proposals and agreements are attached.

2. Attendees: Captain James Seabrooke and Nich Mpras, USCG
Sam Collinson, Ralph Eppard and Rixey Hardy, Corps
Dena Wilson, AWO

3. The proposals and agreements will be presented to the AWO Board of Directors at its meeting on 8-9 September 1988.

Sam Collinson
Sam Collinson

AIMU

AMERICAN INSTITUTE OF MARINE UNDERWRITERS

July 28, 1988

The Honorable Earl Hutto
Chairman, Coast Guard and Navigation Subcommittee
House Merchant Marine and Fisheries Committee
Room 1334, Longworth House Office Building
Washington, D.C. 20515-6230

Dear Chairman Hutto:

The American Institute of Marine Underwriters (AIMU) is pleased to submit its comments on H.R. 4557, a bill which would expand current emergency position indicating radio beacons (EPIRB) requirements to all uninspected vessels operating on the high seas or the Great Lakes. We respectfully request that our comments be made a part of the record of the hearing to be held by your Subcommittee on H.R. 4557 on August 3, 1988.

As insurers, we are deeply concerned about the lack of safety standards for uninspected vessels. The high incidence of loss to life and property especially among uninspected fishing vessels as a consequence of the lack of safety standards has been well documented. AIMU strongly supports this measure which would require EPIRBs to be carried on those vessels not currently subject to such requirements.

The automatic distress signals should substantially improve the likelihood that rescuers will find persons and vessels in distress in a rapid manner. Consideration of monetary costs is, of course, secondary in view of the likelihood that lives will be saved, but insuring timely and effective search operations is vital to the improvement of loss statistics and to the cost effectiveness of search operations.

The American ocean marine insurance industry strongly supports this legislation and urges its passage.

Very truly yours,

Ward L. Mauck

Ward L. Mauck, President

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45

U.S. Department
of Transportation
**United States
Coast Guard**

Commandant
United States Coast Guard

Washington, D.C. 20593-0001
Staff Symbol G-CC/104
Phone 202-366-4280

DEPARTMENT OF TRANSPORTATION

U. S. COAST GUARD

STATEMENT OF CAPTAIN MICHAEL J. SCHIRO

ON ALERTING AND LOCATING DEVICES FOR

UNINSPECTED VESSELS

HOUSE COMMITTEE ON

MERCHANT MARINE AND FISHERIES

SUBCOMMITTEE ON COAST GUARD AND NAVIGATION

3 AUGUST 1988

CAPTAIN
MICHAEL SCHIRO
U. S. COAST GUARD

Captain Michael Schiro is the Deputy Chief of the Coast Guard's Office of Marine Safety, Security and Environmental Protection.

Captain Schiro, a native of Florida, is a graduate of the U. S. Coast Guard Academy, New London, Connecticut, where he earned his Bachelor of Science Degree in 1962.

He served in deck assignments on board the Coast Guard Cutters YAKUTAT and OWASCO before assuming command of Loran Station Matratin, Libya. After a three year tour of duty as a Marine Inspector at Marine Inspection Office at Port Arthur, Texas, he was assigned as Executive Officer on the Coast Guard Cutter LAMAR homeported in Monterey, California. Captain Schiro's other assignments in the Marine Safety field included MIO/COTP Tampa, Florida; MIO/MSO Portland OR; XO, MSO Charleston, SC; Chief of the Marine Environmental Projection Branch, Fifth Coast Guard District, Portsmouth, VA; and Commanding Officer, MSO Charleston, SC. After a three year assignment as Chief of the Planning Staff in the Office of Marine Safety, Security and Environmental Protection he assumed his present position in July of 1988.

Captain Schiro's decorations include two Coast Guard Commendation Medals, The Achievement Medal, The Meritorious Unit Citation, The Commandant's Letter of Commendation, and the Unit Commendation.

He is married to the former Marlana Aldrich of Tampa, Florida. They have two children: Jeffrey and Melanie.

GOOD MORNING, MR. CHAIRMAN. I WOULD LIKE TO THANK YOU AND THE OTHER DISTINGUISHED MEMBERS OF THE SUBCOMMITTEE FOR THIS OPPORTUNITY TO TESTIFY IN SUPPORT OF H.R. 4557, A BILL WHICH ORIGINATED AS A COAST GUARD LEGISLATIVE PROPOSAL. THE BILL WOULD AUTHORIZE THE COAST GUARD TO PRESCRIBE REGULATIONS FOR UNINSPECTED U.S. VESSELS OPERATING ON THE HIGH SEAS OR GREAT LAKES REQUIRING ALERTING AND LOCATING EQUIPMENT, INCLUDING EMERGENCY POSITION INDICATING RADIO BEACONS, OR "EPIRBS". WITH ME THIS MORNING IS CAPTAIN ANTHONY PETTIT, CHIEF OF THE SEARCH AND RESCUE DIVISION AT COAST GUARD HEADQUARTERS.

THE HOUSE OF REPRESENTATIVES HAS PASSED SIMILAR BILLS FOR VARIOUS UNINSPECTED FISHING AND FISH PROCESSING VESSELS. THESE MEASURES ARE NOW CODIFIED IN SECTIONS 4102(E) AND 4502(A)(2) OF TITLE 46 OF THE U.S. CODE. A SIMILAR PROVISION IS ALSO INCLUDED IN THE RECENTLY PASSED H.R. 1841. H.R. 4557, PRESENTLY UNDER CONSIDERATION, WOULD EXTEND THE AUTHORIZATION TO REQUIRE EPIRBS OR OTHER ALERTING AND LOCATING EQUIPMENT, ON OTHER UNINSPECTED VESSELS OPERATING ON THE HIGH SEAS, AND ON ALL UNINSPECTED VESSELS OPERATING ON THE GREAT LAKES.

TYPICAL CATEGORIES OF VESSELS WHICH WOULD BE AFFECTED BY H.R. 4557 INCLUDE -

UNINSPECTED PASSENGER VESSELS CARRYING 6 OR FEWER PASSENGERS;
FISHING VESSELS ON THE GREAT LAKES; AND
UNINSPECTED TOWING VESSELS.

RECREATIONAL BOATS WOULD NOT BE AFFECTED BY THIS LEGISLATION. WE HAVE NO RECORD SYSTEM WHICH ENABLES US TO ACCURATELY ESTIMATE THE NUMBER OF AFFECTED VESSELS, BUT WE

BELIEVE THAT IT IS LESS THAN 10,000.

THE PURPOSE OF THE BILL IS TO FILL IN THE GAP LEFT BY PREVIOUS LEGISLATION. IF THIS BILL BECOMES LAW, WE WILL HAVE THE AUTHORITY TO REQUIRE SOME TYPE OF ALERTING AND LOCATING EQUIPMENT FOR DISTRESS SITUATIONS ON ALL U.S. VESSELS OPERATING ON THE HIGH SEAS AND GREAT LAKES. MOST INSPECTED COMMERCIAL VESSELS ARE NOW REQUIRED TO CARRY EPIRBS AND VISUAL DISTRESS SIGNALS. RECREATIONAL BOATS ARE NOW REQUIRED TO CARRY VISUAL DISTRESS SIGNALS IN THESE WATERS. A RULEMAKING IS CURRENTLY IN PROGRESS ON THE QUESTION OF WHETHER FISHING VESSELS AND FISH PROCESSING VESSELS SHOULD BE REQUIRED TO CARRY EPIRBS ON THE HIGH SEAS. WHEN ONE OF THESE VESSELS IS IN DISTRESS, IT IS IMPORTANT FOR US TO BE ALERTED TO THE PROBLEM AND BE ABLE TO LOCATE THE VESSEL.

IF THIS BILL BECOMES LAW, THE SPECIFIC TYPES OF DEVICES, CLASSES OF VESSEL, AND GEOGRAPHIC BOUNDARIES WILL BE WORKED OUT IN THE RULEMAKING PROCESS. WE ARE CONSIDERING PROPOSING RULES WHICH WOULD REQUIRE SATELLITE EPIRBS ON VESSELS OPERATING ON THE HIGH SEAS, AND ON THE OPEN WATERS OF THE GREAT LAKES. THE BILL ALSO GIVES US THE OPTION OF REQUIRING VISUAL DISTRESS SIGNALS, SUCH AS FLARES OR SMOKE SIGNALS, ON UNINSPECTED VESSELS IN ADDITION TO EPIRBS, OR IN PLACE OF EPIRBS IN THE CASE OF VESSELS THAT OPERATE WITHIN SIGHT OF LAND OR POTENTIAL RESCUERS.

MR. CHAIRMAN, THIS CONCLUDES MY PREPARED REMARKS ON H.R. 4557. CAPTAIN PETTIT AND I WOULD BE HAPPY TO ANSWER ANY QUESTIONS WHICH YOU OR MEMBERS OF THE SUBCOMMITTEE MAY HAVE.

Safety Information

National Transportation Safety Board

Washington D.C. 20594

Testimony of

Honorable Joseph T. Nall

Member, National Transportation Safety Board

before the

Subcommittee on Coast Guard and Navigation

Committee on Merchant Marine and Fisheries

House of Representatives

Regarding

Locating and Alerting Equipment

on Uninspected Vessels

Washington, D.C.

August 3, 1988

Mr. Chairman, Members of the Committee, it is a pleasure to appear before you today on behalf of the National Transportation Safety Board.

We share with the Congress and others a common dedication to promoting safety in the maritime industry, and I want to commend you for holding this hearing. I am particularly pleased to have this opportunity to address the need for locating and alerting equipment including emergency position indicating radio beacons (EPIRBs) on uninspected vessels operating on the high seas or on the Great Lakes.

The Safety Board investigates all major marine accidents that occur on navigable waters of the United States and marine accidents that involve U.S. merchant vessels in international waters. Under joint regulations of the Board and the U.S. Coast Guard, the Coast Guard conducts the preliminary investigations of selected marine accidents. They then notify the Board if an accident is within its jurisdiction. The Safety Board then responds by conducting its own investigation, by participating in a joint investigation with the Coast Guard, or by delegating investigations to the Coast Guard.

In all cases the Safety Board completes its own independent analysis of the accident and determination of probable cause. As a result of its investigations, the Board directs safety recommendations to agencies such as the U.S. Coast Guard, the National Oceanic and Atmospheric Administration, fishing vessel companies and other maritime organizations.

The accident investigations we undertake at the Safety Board and the special studies we conduct give us a unique perspective, particularly in the area of uninspected commercial fishing vessel safety.

The Safety Board has a longstanding commitment to improve the safety of uninspected vessels. For example, in 1987 we conducted a study on uninspected commercial fishing vessels. The results of that study are appropriate to this hearing.

Between 1981 and 1984, an average of 250 documented fishing vessels were lost each year, resulting in an average of 75 lives lost annually.

This number of accidents was an increase of the 10 previous years' annual losses, which ranged from 150 to 200. Fishing vessel accidents account for a high percentage of major marine accidents, and loss rates of large fishing vessels -- more than 100 gross tons -- are five to seven times greater than that for U.S. ocean-going cargo ships. The accident fatality rate for the fishermen is seven times the national average for all industry groups -- the highest rate of any U.S. industry group and one of the highest risk industries in the world.

In the process of gathering information for the study, our investigators reviewed results of marine investigations going back 18 years.

Today, I would like to provide you with the findings from our study, based on 203 accidents from 1978 to mid-1987. These deal with the safety needs for the uninspected commercial fishing vessel industry -- including findings involving radio telecommunications safety issues.

The term "uninspected commercial fishing vessel" -- as used by the Safety Board -- denotes a vessel not subject to U.S. Coast Guard material inspection, certification and safety standards in such areas as hull, machinery, lifesaving and firefighting equipment, and navigational equipment. Additionally, the vessels generally are not required to have licensed personnel nor documented seamen and there are no manning requirements.

In 1986, there were approximately 100,000 commercial fishermen operating on 33,000 U.S. uninspected commercial fishing vessels. These fishermen participated in landing 60 billion pounds of fish valued at $2.5 billion. They risk their lives daily in a harsh and hostile environment that demands safe operating practices, solid training in safety measures and, in the event of an accident, adequate safety equipment in good working order.

Today, there is no requirement that commercial fishermen who work on U.S. uninspected commercial fishing vessels complete the training necessary to perform their jobs safely. Further, federal requirements for safety equipment applicable to uninspected commercial fishing vessels are inadequate.

The Safety Board's study recommended:

- The establishment of training requirements for captains and crewmembers commensurate with their respective responsibilities,
- The establishment of licensing requirements, at a minimum for captains,
- The establishment of stability information requirements,
- Vessel inspection to assure compliance, and
- Expansion of basic lifesaving equipment requirements including emergency position indicating radio beacons (EPIRBs) and operable emergency radios.

One area I know you're vitally interested in is EPIRBs. As early as December 1980, the Safety Board called for EPIRBs to be installed on uninspected commercial fishing vessels as the result of the capsizing and sinking of the U.S. fishing vessel LOBSTA-1. The Safety Board asked the Coast Guard to:

> Seek authority to require the carriage of emergency position indicating radio beacons on documented U.S. fishing vessels.

In 1984, the U.S. fishing vessel AMAZING GRACE was lost about 80 nmi east of Cape Henlopen, Delaware. The Safety Board's report again addressed the need for EPIRBs. The investigation noted that, since the Board's recommendation in 1980, more than 200 lives had been lost. The report pointed out that, although the

Coast Guard actively promoted the voluntary carriage of EPIRBs, most fishing vessels still did not carry them. Further, the cost of providing the approximately 33,000 fishing vessels with EPIRBs was estimated at less than $10 million. The search for the AMAZING GRACE alone cost $12 million. A more recent accident investigated by the Safety Board, the loss of the F/V NORDFJORD in late 1987 with the loss of five lives, cost $500,000 for search activities. (The F/V NORDFJORD was equipped with two EPIRBs, but they were the manually activated type and were not activated at the time.)

Every year U.S. Coast Guard search and rescue efforts for non-EPIRB-equipped vessels is estimated at about $24 million.

In 1985, the Safety Board reiterated to the Coast Guard its concern that this recommendation had not been implemented. The Coast Guard replied in September of that year that it concurred with the recommendation and that it would seek legislative authority to require EPIRBs on documented U.S. fishing vessels.

In October 1986, Public Law 99-640, the Coast Guard Reauthorization Bill, was signed by the President. Section 16, "Vessel Safety," contained the following language addressed to the Coast Guard:

> "Each uninspected fishing, fish processing, or fish tender vessel operating on the high seas shall be equipped with the number and type of emergency position indicating radio beacons prescribed by regulation."

As a result of Congressional initiative a notice of proposed rulemaking was issued in September 1987.

Currently, the Safety Board is awaiting the Coast Guard's final rule on mandatory EPIRB carriage requirements for uninspected commercial fishing, fish tender and fish processing vessels. The rule also will address the interface of the EPIRBs with the COSPAS/SARSAT satellite system. This satellite system (COSPAS/SARSAT) is a major effort between the east and west in space and it is especially gratifying to us here to note that it is devoted to the safety of life at sea. Additionally, a Federal Communications Commission (FCC) rulemaking will permit a new alerting frequency -- 406 MHz signals -- the EPIRBs of the future.

This new EPIRB, which also will include a vessel's identification, may greatly reduce the Coast Guard's search and rescue response time. The Board believes that the U.S. commercial marine and fishing vessel fleet will benefit from the timely implementation of a new EPIRB frequency coupled with the COSPAS/SARSAT system.

The EPIRB regulation for fishing vessels currently is under review in the Office of Management and Budget (OMB). We have written both to the OMB Director and the Secretary of Transportation urging that this rulemaking be expedited. Copies of these letters are attached for the record.

Further, we are pleased that the FCC has taken action to improve the modulation characteristics of the older frequencies so that the COSPAS/SARSAT satellite system can more readily detect these frequencies. We understand that this improvement will apply to all new EPIRBs built after 1988.

I would like to share with you why the value of these types of life-saving transmissions were impressed upon us at the Board in two recent accident investigations we conducted.

About 1030 on October 28, 1986, explosions and fires occurred in the engineroom and starboard fuel oil tanks of the 811-foot-long U.S. tankship OMI YUKON which was en route from Hawaii to South Korea for scheduled vessel repair and a biennial inspection by the U.S. Coast Guard. At the time of the explosions, the tankship was located in the Pacific Ocean about 1,000 miles west of Honolulu, Hawaii, and was not carrying any cargo. There were 24 crewmembers, two U.S. welders, and 11 Japanese workers employed in cleaning the cargo tanks aboard the vessel. Four persons were killed; the other 33 persons safely abandoned the vessel and were rescued later by a Japanese fishing vessel. The estimated damage to the OMI YUKON was $40 million. The vessel was towed to Japan and sold for scrap. The EPIRB operated in this case, but the Coast Guard had to wait for a second confirmation before launching a search. The second confirmation was necessary because of false alarm transmissions by existing emergency locator transmitters (ELTs).

Among the Board's accident findings were limitations of the SARSAT System in the Central Pacific Ocean, including the high percentage of false alarm transmissions by existing ELTs. In this large area of nonsatellite coverage -- because of its distance from the local user terminals (LUT) on which SARSAT depends -- EPIRB and ELT distress signals may not be detected. In order for SARSAT to be effective for American and other nations shipping to Asia and Australia, the system needs another local user terminal for a large section of the Pacific Ocean, as well as, total implementation of the new 406 frequency on inspected and uninspected vessels.

In 1987, the U.S. charter fishing vessel FISH-N-FOOL capsized and sank in Mexican territorial waters just west of Baja, California Norte.

Most of the 12 persons on board were on the deck at the time of the capsizing and were thrown into 62-degree Fahrenheit seawater. The Captain was in the wheelhouse and was not seen after the ship capsized. Eight people began swimming toward an island two and one-half miles away. None was wearing a personal flotation device. The alternate operator remained near the vessel and managed to board a lifeboat. The vessel sank several hours later. In this case the EPIRB operated as designed, but valuable time was lost as the Coast Guard's search and response was delayed as it awaited verification that the EPIRB signal was legitimate and not a false alarm.

One passenger was rescued near the island seven hours later by Mexican fishermen. Other than the alternate operator, no more survivors were found.

Among the safety issues we identified in our investigation of this accident were problems caused by the high false alarm rate of emergency locator transmitters confounding actual EPIRB transmissions, and we have recommended that the Federal Aviation Administration (FAA) correct this.

Specifically, the Safety Board recommended that the FAA:

> Require that existing emergency locator transmitters be replaced by 1989 with ELTs complying with technical standard order TSO-C91a and that ELTs be subject to specific maintenance requirements.

Finally, one other accident, the capsizing and sinking of the U.S. sailing vessel PRIDE OF BALTIMORE in the Atlantic Ocean on May 14, 1986 -- in which survivors were adrift for four days before being picked up by a passing vessel -- led the Safety Board to recommend that the U.S. Coast Guard:

Seek authority to require uninspected vessels on voyages offshore to carry a Class A Emergency Position Indicating Radio Beacon (EPIRB) and in the interim period, continue to encourage their use.

The Safety Board will continue to investigate major commercial marine and fishing vessel casualties and report on the critical safety issues that are uncovered from our investigations. Radio telecommunications, EPIRBs, COSPAS/SARSAT, the global search and rescue systems and other areas of technical consideration will of necessity be reviewed in the cause of marine casualties in the future. Major marine casualties such as the total loss of the U.S. uninspected commercial fishing vessel NORDFJORD in September 1987 with no EPIRB signal only strengthens the Board's resolve toward doing all we can to ensure that these accidents become lessons learned and are not repeated. The work of this Committee, the U.S. Coast Guard, the FCC, the RTCM, and the international community in minimizing casualties through improved radio telecommunications techniques and applications is greatly appreciated.

Mr. Chairman, that completes my formal testimony. I would be pleased to respond to questions.

National Transportation Safety Board
Washington, D.C. 20594

Office of the Chairman

August 1, 1988

Honorable James C. Miller III
Director
Office of Management and Budget
Executive Office Building
Washington, D.C. 20503

Dear Mr. Miller:

The National Transportation Safety Board is aware that negotiations are taking place between your office and those of the United States Coast Guard, U.S. Department of Transportation on final regulations to amend the uninspected vessel regulations (46 CFR Part 25) to require emergency position indicating radio beacons (EPIRBs) to be carried on fishing, fish processing, and fish tender vessels operating on the high seas. The Safety Board would like to voice its concern that this regulation receive the highest priority for expeditious action by your office.

The Safety Board has had a long-standing concern to improve the safety of uninspected commercial fishing vessels. One minimum safety requirement for fishing vessels is the EPIRB. As early as December 1980, the Board has called for this vital safety component to be required on commercial fishing vessels.

In 1984, the U.S. fishing vessel AMAZING GRACE was lost off the Delaware Coast. The ensuing search for that vessel alone cost $12 million. At that time the Safety Board estimated that the cost to provide the approximately 33,000 fishing vessels with EPIRBs would be cost beneficial. In 1985, the Safety Board reiterated to the U.S. Coast Guard its concern that the 1980 Safety Recommendation had not been implemented. The Coast Guard replied in September of that year, that it concurred with that recommendation and that it would seek legislative authority to require EPIRBs on documented U.S. fishing vessels.

In October 1986, Public Law 99-640, the Coast Guard Authorization Act of 1986, Section 16 "Vessel Safety" provided the following language addressed to the Coast Guard:

> Each uninspected fishing, fish processing, or fish tender
> operating on the high seas shall be equipped with the number
> and type of emergency position indicating radio beacons
> prescribed by regulation.

The Safety Board believes that this U.S. Coast Guard regulation is critical to the safety of many of the Nation's fishermen/women. Only recently, the Board met on yet another unexplained loss with no EPIRB signal of the U.S. commercial fishing vessel the F/V NORDFJORD. This vessel was never located and its crew of five remain missing at sea.

The Safety Board believes that the need for this rule is compelling and the Board urges you to take whatever actions are necessary to accelerate the issuance of this rule in keeping with the Congressional mandate.

Respectfully yours,

Jim Burnett

Jim Burnett
Chairman

Enclosures

National Transportation Safety Board
Washington, D.C. 20594

Office of the Chairman

August 1, 1988

Honorable Jim Burnley
Secretary
U.S. Department of Transportation
Washington, D.C. 20590

Dear Mr. Burnley:

The National Transportation Safety Board is aware that negotiations are taking place between the U.S. Coast Guard and the Office of Management and Budget on final regulations to amend the uninspected vessel regulations (46 CFR Part 25) to require emergency position indicating radio beacons (EPIRBs) to be carried on fishing, fish processing, and fish tender vessels operating on the high seas.

The Safety Board would like to voice its concern that this final regulation receive the highest priority for expeditious action by your office. The Board believes that this U.S. Coast Guard regulation is critical to the safety of many of the Nation's fishermen/women. Only recently, the Board met on yet another unexplained loss with no EPIRB signal of the U.S. uninspected commercial fishing vessel the F/V NORDFJORD. This vessel was never located and the crew of five remain missing at sea.

The Safety Board believes that the need for this rule is compelling and the Board urges you to take whatever actions are necessary to accelerate the issuance of this rule in keeping with the Congressional mandate.

Respectfully yours,

Jim Burnett

Jim Burnett
Chairman

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August 1, 1988*

STATEMENT OF

William T. Adams, President

Radio Technical Commission for Maritime Services

BEFORE THE

Subcommittee on Coast Guard and Navigation

of the Committee on Merchant

Marine and Fisheries

U.S. House of Representatives

CONCERNING

H.R. 4557, Legislation to Require

the Placement of Alerting and

Locating Equipment on All

United States Uninspected

Vessels Operating on the

High Seas or on the Great Lakes

* Editorial revision of Statement dated July 28, 1988

I am William T. Adams, President of the Radio Technical Commission for Maritime Services, more often referred to in the maritime community as "RTCM".

RTCM is a nonprofit corporation of approximately 150 non-government and government organizations. International Associate Member Organizations comprise about 10% of the total membership. Within this membership a wide range of interests is represented including equipment manufacturers, sales and service dealers, common carrier and other service providers, maritime associations and users ranging from recreational boat owners to ocean-going shipping.

Within RTCM these members work together cooperatively to improve the effectiveness of maritime telecommunications. As an organization, RTCM serves as a focal point in the maritime community for the exchange of information, establishment of standards, and development of new methods, rules and procedures for the effective application of advanced maritime telecommunications technology.

Much of the work accomplished by RTCM, as evidenced by its reports and recommendations, has dealt with the improvement of maritime safety through application of modern telecommunications technology. Many of the RTCM reports and recommendations have been the basis for national regulatory actions or for national positions in various international meetings dealing with maritime safety.

With particular regard to the subject of this hearing, I would note that during the past year an RTCM working committee of volunteer experts from both government and non-government sectors developed RTCM Recommended Standards for 406 MHz Satellite Emergency Position Indicating Radiobeacons (EPIRBs). These RTCM Recommended Standards have been formally forwarded to both the Federal Communications Commission (FCC) and the U.S. Coast Guard (USCG) for consideration in connection with current rulemaking actions.

The invitation to this hearing advised that the Subcommittee is particularly interested in knowing the effect the proposed legislation would have on safety at sea and on learning more about false alarms caused by EPIRBs or other alerting equipment.

In considering the effect of the proposed legislation on safety at sea, it is important to recognize the fact that in recent years there have been substantial improvements in telecommunications systems, equipment and procedures available for use by those in distress on the sea. Despite this fact, however, the telecommunications equipment carried aboard many boats and ships today can only be considered grossly inadequate for safety purposes when viewed in the light of available technology. Explosions, fires, major structural failures, and severe storms still result in loss of both large and small ships. Ships still disappear without a trace; and even when a call for help is received, far too often the final conclusion is "no survivors".

The primary telecommunications problems associated with safety at sea center about several considerations, in particular:

- Miminizing delay in receipt of a distress alert by rescue forces.
- Provision of sufficient information in the distress alert to identify the call as valid and provide an indication of vessel size and/or type to assist rescue forces in determining appropriate response.
- Availability of location information with sufficient accuracy to permit rapid arrival of rescue forces at the scene of distress.

To meet these requirements there is an urgent need for the mariner at sea to carry a small, portable, floatable, and thoroughly reliable device that will enable him to transmit a distress alert, with location information, that will be received rapidly by rescue forces. Ideally such a device would provide identification of the user initiating the signal and would float free and activate automatically in event of a sudden sinking.

A device providing some of the capabilities cited above is in use today. This is the 121.5 MHz Emergency Position Indicating Radiobeacon (EPIRB), whose signal can generally be detected by the COSPAS-SARSAT satellite system, although it does not provide identification and accuracy of location is poor. A far more effective device, and one eliminating the deficiencies of the 121.5 MHz EPIRB, is the 406 MHz satellite EPIRB, operating through the COSPAS-SARSAT satellite system and available in some areas of the world today. I am sorry to say that it is not yet legally available in the United States pending completion of authorizing rulemaking by the Federal Communications Commission.

The mariner with a 406 MHz satellite EPIRB has available, for the first time in the history of man's attempt to conquer the oceans of the world, the capability of either manually or automatically transmitting a call for help which will provide the rescue forces ashore with all of the essentials for a successful rescue at sea -- early distress alert, identification of distressed unit, and location of the distress. The lengthy searches for overdue vessels, concluding with a report of "no traces found", will no longer occur for ships carrying these satellite EPIRBs. The benefits of such a device cannot be calculated in dollars because they will be accrued in the lives of those saved from the sea.

Will there be false alarms? History tells us that any system of calling for help is subject to false alarms whether it is the use of the telephone with 911 or use of a radio with existing maritime radio distress frequencies. I would note, however, that the false alarm problem associated with emergency radio beacons currently used by mariners and aeronauts has been highly publicized, particularly in the aeronautical community. In this regard I would suggest that the following facts be taken into account:

- The aeronautical emergency beacon (known as an Emergency Locator Transmitter or ELT) contains a crash activated G-Switch which has been identified as a significant source of false alarm problems. The ELT is often triggered by a hard landing, for example, of a small aircraft. The pilot, unaware that the beacon has been activated, parks his plane, locks the door, and departs while the beacon continues to send its alerting signal.

- There are no reliable false alarm studies, of which I am aware, which clearly differentiate between maritime EPIRB and aeronautical ELT alerts. The real extent of the maritime EPIRB false alarm problem is thus unknown. Certainly there are maritime false alarms resulting from inadvertent activation of the devices when removed from their float-free racks and stored below for in-port theft security. In other instances improperly protected manual on-off switches of maritime EPIRBs have been inadvertently tripped to the on position. I would note, however, that such problems will not exist with the new 406 MHz satellite EPIRBs because of the standards which they will be required to meet and the testing to which they will be subjected to verify their compliance with the standards.

- Some false alarms are believed to come from interfering sources other than either maritime or aeronautical beacons. This problem will not exist with the 406 MHz satellite EPIRB, since the satellite EPIRB signal will be clearly identified and differentiated from any other signals that may be received by the satellite on 406 MHz. This situation is not true for the current 121.5 MHz EPIRBs.

- The ability of the new 406 MHz satellite EPIRB to provide user identification (not available with existing 121.5 MHz EPIRBs/ELTs which are the source of false alarm complaints) and relatively high accuracy position location (about 5 km for 406 MHz satellite EPIRBs compared to about 23 km for 121.5 MHz EPIRBs/ELTs), will drastically reduce the problems created today for the rescue forces when a "false" alarm is received.

As a result, I believe that any false alarm problems existing today with the 121.5 MHz EPIRBs and/or ELTs will not exist with 406 MHz satellite EPIRBs designed and tested to currently recommended satellite EPIRB standards.

Additionally, of further benefit, carriage of 406 MHz satellite EPIRBs by uninspected vessels, to meet requirements of H.R. 4557, would substantially improve response time of rescue forces in reaching those in distress, while drastically reducing the man hours of aircraft and ship search time currently employed in checking on overdue reports and responding to false alarms.

We therefore support H.R. 4557 insofar as it is interpreted to require the carriage of 406 MHz satellite EPIRBs or of devices having at least comparable capabilities. In this regard I note that the term "alerting and locating equipment" might be subject a wide range of interpretation including, for example, installed two-way radios and hand-held flares. It might be desirable in either the legislation itself or in the legislative history to indicate the intent to require "portable, battery-powered telecommunication alerting and locating equipment".

The Subcommittee should also be aware that there appears to be possible ambiguity in the use of the term "high seas". This term was used, of course, in the legislation requiring carriage of EPIRBs on commercial fishing vessels and was interpreted by the Coast Guard to mean the traditional "three-mile limit". Final rulemaking to implement that legislation has been delayed by the Office of Management and Budget (OMB), and it is my understanding that the questions raised by OMB relate to the three-mile limit interpretation. It may be desirable to clarify the intent of the Congress in this regard in H.R. 4557.

In summary, it is my view that carriage of 406 MHz satellite EPIRBs, or comparable alerting and locating devices, by uninspected vessels on the high seas, as proposed by H.R. 4557, will enhance the safety and survivability of persons on those vessels in event of a casualty, while simultaneously reducing the resources that would otherwise be expended by rescue forces in search operations.

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August 26, 1988

Mr. Earl Hutto
Chairman, Subcommittee on Coast Guard and Navigation
Committee on Merchant Marine and Fisheries
Room 1334, Longworth House Office Building
Washington, D.C. 20515-6230

Dear Mr. Hutto:

Your letter of August 9, 1988 forwarded a question for the record in regard to testimony on HR 4557, to wit: "The Subcommittee has been told that vast areas under the Coast Guard purview in the Pacific and Atlantic Oceans are not now being covered by SARSAT. Has your organization looked into this and, if so, what have you found out? What are your recommendations?"

This particular matter has been considered in a number of our technical committee meetings and symposia dealing with issues related to improved alerting and locating systems. From these we have developed the following information.

The Class A, B and S Emergency Position Indicating Radiobeacons (EPIRBs) in use today operate on 121.5 MHz. When these EPIRBs are activated, their signal is received by the first COSPAS or SARSAT satellite which passes within view of the EPIRB. The EPIRB signal is then relayed by the satellite to any ground station (Local User Terminal or LUT) that is in view. This information can be transmitted to the LUTs only in real time, so that the satellite must be simultaneously in view of both the EPIRB and the LUT in order for the EPIRB signal to be transmitted to the rescue forces.

In this real time mode the signal detection is limited to a circular visibility are of about 2500 kilometers around each LUT. This area around existing LUTs does not encompass the entire search and rescue area of United States (Coast Guard) responsibility with significant uncovered areas in the Pacific Ocean and the Caribbean.

RTCM recommends that additional LUT's be provided and that existing LUTs be relocated as necessary to provide required ground to satellite visibility for all maritime areas of United States search and rescue responsibility.

The problem cited above is not applicable to the forthcoming 406 MHz satellite EPIRBs, inasmuch as the satellites have on-board 406 MHz signal storage and delayed transmission capability which permits worldwide coverage regardless of LUT locations. The additional LUTs, however, will be highly beneficial when used in conjunction with 406 MHz satellite EPIRBs since they will provide a more rapid relay of the distress signals to rescue forces.

I trust that this answer is responsive to your inquiry. We will be pleased to clarify and/or amplify if you so desire.

Sincerely,

W.T. Adams

WTA/djp

U.S. Department
of Transportation

United States
Coast Guard

Commandant
United States Coast Guard

Washington, D.C. 20593-0001
Staff Symbol G-CC/104
Phone 366-4280

5730
SEP 1 6 [illegible]

The Honorable Earl Hutto
Chairman, Subcommittee on Coast Guard
and Navigation
Committee on Merchant Marine and Fisheries
House of Representatives
Washington, D. C. 20515-6230

Dear Mr. Chairman:

The attached Questions and Answers for the Record of your Committee's hearing on 3 August 1988, on H.R. 4557, a bill to require alerting and locating equipment, including EPIRB's, on certain uninspected vessels operating on the high seas and on the Great Lakes are submitted as per your request. All responses have been reviewed and approved, as required by the Department of Transportation and the Office of Management and Budget.

Please do not hesitate to call if I can provide further assistance.

Sincerely,

R. T. Rufe
Captain, U. S. Coast Guard
Chief, Congressional Affairs Staff
By direction of the Commandant

Enclosure: (1) Qs and As for Congressman Hutto, 1-6
(2) Qs and As for Congressman Davis, 1
(3) Qs and As for Congressman Clements, 1-3

Copy: Ms. Sherry Steele, Minority Staff

2

CONGRESSMAN HUTTO QUESTIONS
WITH COAST GUARD ANSWERS:(1)
EPIRB HEARING, (H.R. 4557), 03/08/88

QUESTION. I UNDERSTAND THAT THERE IS NO DEFINITION OF EPIRB IN EITHER U.S. CODE OR IN THE INTERNATIONAL CONVENTION FOR THE SAFETY OF LIFE AT SEA. WHAT IS AN EPIRB AND HOW DOES IT DIFFER FROM "ALERTING AND LOCATING EQUIPMENT" PROPOSED IN THE LEGISLATION?

Answer. EPIRB is an acronym for Emergency Position Indicating Radio Beacon. EPIRBs are in fact defined in the SOLAS Convention as amended in 1983 (Chapter IV Regulation 2) as "a station in the mobile service the emissions of which are intended to facilitate search and rescue operations." Similar definitions are found in the International Telecommunications Union Radio Regulations. Federal Communications Commission Regulations and the National Search and Rescue Manual.

Alerting equipment is anything used to successfully report a distress situation to someone who can provide or coordinate assistance. This equipment includes: telephones, radios and visual signaling devices. Locating equipment refers to equipment used by those conducting a search e.g. radar and direction finders.

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CONGRESSMAN HUTTO QUESTIONS
WITH COAST GUARD ANSWERS:(2)
EPIRB HEARING, (H.R. 4557), 03/08/88

QUESTION HOW IS THE COAST GUARD INVOLVED WITH THE NEW GLOBAL MARITIME DISTRESS AND SAFETY SYSTEM? AND, PLEASE TELL THE SUBCOMMITTEE A LITTLE ABOUT THIS SYSTEM.

Answer. The Coast Guard led U.S. delegations to the International Maritime Organization (IMO), and had members on the U.S. delegations to the International Telecommunications Union (ITU) in developing the Global Maritime Distress & Safety System (GMDSS). The IMO and the ITU are jointly establishing the GMDSS to provide for distress and safety communications between ships at sea and rescue coordination centers on shore.

The IMO began developing the GMDSS in 1979 to provide for the use of newer technology in ship telecommunications, replacing the existing Morse Code-based system used on ships since the beginning of the century.

The ITU sponsored World Administrative Radio Conference for Mobile Services, held in September 1987, incorporated GMDSS procedures and radio frequencies into the International Radio Regulations. The IMO meets on October 31, 1988 to adopt amendments to the Safety of Life at Sea (SOLAS) Convention beginning the formal implementation of the GMDSS. IMO will decide: when the GMDSS comes into force (expected to be phased in between 1992 and 1999); what ships will have to participate in the GMDSS (we expect inclusion of all passenger ships and merchant ships over 300 tons on international voyages); and what elements will comprise the GMDSS.

GMDSS shipboard radiocommunication functions include:

-transmitting distress alerts by at least two separate and independent means,
-transmitting shore-to-ship distress alerts,
-transmitting/receiving ship-to-ship distress alerts,
-transmitting/receiving search and rescue coordinating communications,
-transmitting/receiving on-scene communications,
-transmitting/receiving locating and alerting signals
-transmitting/receiving maritime safety information,
-transmitting/receiving general radiocommunications to/from shore,
-transmitting/receiving bridge-to-bridge communications

We expect GMDSS elements to include the following systems and equipment:

4

INMARSAT (International Maritime Satellite Organization) -- satellite terminals including Standard A voice/data terminals in use now, and low cost Standard C data terminals (planned 1990).

Satellite Emergency Position Indicating Radio Beacons (EPIRBs) -- operating through the jointly funded and operated search and rescue satellite (COSPAS - SARSAT) system in use now. These EPIRBs will be the same 406 MHz float free devices which the Coast Guard plans to require on domestic vessels. INMARSAT has also planned an L-band EPIRB device which some administrations could use as an alternate to the 406 MHz device. This INMARSAT EPIRB is still in the experimental phase, and may not be funded.

NAVTEX -- a means of providing a printout of maritime safety information broadcasts (e.g. navigation and weather warnings, forecasts) to ships within approximately 200 NM offshore. The Coast Guard operates NAVTEX from the East Coast, and will operated NAVTEX from the West Coast by the end of next year.

INMARSAT Safety Net (also called Enhanced Group Call) -- used to give high seas maritime safety information outside NAVTEX coverage...will likely be provided with satellite terminal above... HF telex allowed as substitute. (Planned 1991.)

High Frequency (HF) telex (also called narrow-band direct printing -- in common use.

HF radiotelephone -- in common use.

Very High Frequency (VHF) radiotelephone -- in common use.

VHF handheld transceiver -- for survival craft...in common use.

Search and Rescue Transponder (SART) -- locating beacon for ships in distress and survival craft...makes radar beacon-like mark on ship's radar... available, but not in common use.

Digital Selective Calling (DSC) on VHF, HF, and MF (Medium Frequency) -- used to initiate ship-to-ship or shore-to-shore call...still under review by IMO...not yet in use.

When GMDSS finally comes into force, international distress communications will change from primarily a ship-to-ship based system to a ship-to-shore (Rescue Coordination Center) based system.

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CONGRESSMAN HUTTO QUESTIONS
WITH COAST GUARD ANSWERS:(3)
EPIRB HEARING, (H.R. 4557), 03/08/88

QUESTION. WILL THE PRESENT TECHNOLOGY EPIRB BE ABLE TO INTERFACE WITH BOTH SARSAT AND GMDSS?

Answer. The Search and Rescue Satellite-Aided Tracking system (SARSAT) is part of the Global Maritime Distress and Safety System (GMDSS). The present technology of the 406 MHz satellite EPIRB works with both systems.

6

CONGRESSMAN HUTTO QUESTIONS
WITH COAST GUARD ANSWERS: (4)
EPIRB HEARING, (H.R. 4557), 03/08/88

QUESTION. ACCORDING TO YOUR TESTIMONY AT THE HEARING, THE FEDERAL COMMUNICATIONS COMMISSION WILL BE ISSUING A FINAL RULE IN SEPTEMBER AUTHORIZING 406 MHz FOR EPIRB's. WHAT IS THE SIGNIFICANCE OF THIS CHANGE?

Answer. The Federal Communications Commission's final rule will authorize national use of EPIRBs operating on 406 MHz, give the technical standards for manufacturing EPIRBs, and specify type acceptance requirements. Without final rules, 406 MHz EPIRBs are not authorized for use in the United States.

7

CONGRESSMAN HUTTO QUESTIONS
WITH COAST GUARD ANSWERS: (5)
EPIRB HEARING, (H.R. 4557), 03/08/88

QUESTION. BOATS USED FOR BAREBOAT CHARTERS ARE NOT NOW REQUIRED TO INCLUDE EPIRB's WITH THEIR SAFETY EQUIPMENT EVEN THOUGH THESE BOATS OFTENTIMES OPERATE ON THE HIGH SEAS OR ON THE GREAT LAKES, AS STATED IN H.R. 4557. DO YOU HAVE ANY PLANS TO REQUIRE THESE BOATS TO HAVE EPIRB's IN THE NEAR FUTURE?

Answer. There are no specific regulations for bareboat chartered vessels. They are subject to the regulations applying either to recreational boats or commercial vessels, depending on how they are used. Title 46 United States Code 4302 specifically prohibits the Coast Guard from requiring any radio equipment on recreational boats. This would include any recreational boat that is bareboat chartered for recreational purposes only. If the vessel is bareboat chartered and then used to carry passengers for consideration (hire), it would be subject to other regulations and required to carry the alerting devices stipulated in those regulations. For example, a vessel carrying six or less passengers would be covered by the uninspected vessel regulations (46 CFR 24-29). A vessel less than 100 gross tons and carrying more than six passengers would be covered by the small passenger vessel regulations (46 CFR 175-187).

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CONGRESSMAN HUTTO QUESTIONS
WITH COAST GUARD ANSWERS: (6)
EPIRB HEARING, (H.R. 4557), 03/08/88

QUESTION. WHEN THE PROPOSED EPIRB BILL LANGUAGE WAS RECEIVED FROM THE SECRETARY, THE BACKGROUND INFORMATION INDICATED THAT AN ESTIMATED 16,000 VESSELS WOULD COST ABOUT $600. HOWEVER, TESTIMONY INDICATED THAT ONLY 10,000 VESSELS WOULD BE AFFECTED AND THAT THE EPIRB WOULD COST AN ESTIMATED $2,000. WHY THE DIFFERENCES AND WHAT SPECIFIC KINDS OF VESSELS WILL BE AFFECTED BY THIS BILL?

Answer. In the "Statement of Purpose and Need", in the proposed bill package, the 16,000 vessels was our estimate of all the uninspected vessels in the United States. On page 3 of the "Statement of Purpose and Need" it is further stated that "not all of the 16,000 additional uninspected vessels would be required to carry the kind of equipment (i.e. EPIRBs) included in this proposal, since not all uninspected vessels operate on the high seas or the Great Lakes, where EPIRBs could be required under this proposal." In testimony before the Subcommittee we estimated approximately 10,000 of the 16,000 uninspected vessels would be affected by this legislation. Those specific kinds of vessels likely to be affected by this bill are:

a. uninspected tug boats
b. uninspected offshore supply vessels
c. uninspected oceanographic research vessels
d. uninspected passenger vessels (6 or less passengers)

The estimated cost figure of $600 was the best estimate available when the proposed bill was submitted in February 1988. As we worked with the EPIRB manufacturers during the rulemaking process for EPIRBs on fishing vessels, we determined that $2000 or less was a better estimate for the initial cost of satellite EPIRBs. We expect the cost will come down as the market expands and more manufacturers begin production.

9

CONGRESSMAN DAVIS QUESTIONS
WITH COAST GUARD ANSWERS: (1)
EPIRBS HEARING, (H.R. 4557), 03/08/88

QUESTION. DURING THE HEARING BEFORE OUR SUBCOMMITTEE ON AUGUST 3, 1988, YOU TESTIFIED THAT YOU COULD PROVIDE AN EXEMPTION TO THIS LEGISLATION BY REGULATION. WHAT IS THE STATUTORY BASIS OF THESE REGULATIONS?

Answer. The legislation itself gives the Coast Guard the statutory basis to grant the equivalent of an exemption. The language of the bill; "... shall be equipped with the number and type of alerting and locating equipment, including emergency position indicating radio beacons, as prescribed by regulation", allows for flexibility in the regulatory process. The "type" of "alerting and locating" equipment may be determined, in the regulatory process, to be flares, smoke signals, radios or emergency position indicating radio beacons (EPIRBS). Not all of these devices may be needed on each type of vessel. On certain vessels where an EPIRB is determined to be unnecessary, the "number" required could be determined to be zero. The Coast Guard believes that it is important to retain the flexibility to grant exemptions, as allowed under current low.

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CONGRESSMAN CLEMENT'S QUESTIONS
WITH COAST GUARD ANSWERS: (1)
EPIRB HEARING, (H.R. 4557), 03/08/88

QUESTION. I UNDERSTAND THAT DUE TO INADEQUATE GROUND STATIONS ABOUT 50 PERCENT OF THE COAST GUARD'S AREA OF RESPONSIBILITY IN THE PACIFIC AND A SMALLER AREA IN THE ATLANTIC ARE NOT COVERED BY THE SEARCH AND RESCUE SATELLITE-AIDED TRACKING (SARSAT) SYSTEM. WILL THE EXPANSION OF THE CATEGORY OF VESSELS SUBJECT TO EPIRBs MEAN THAT MORE EPIRB TRANSMISSIONS WILL BE EMITTED FROM AREAS NOT COVERED BY SARSAT?

Answer. The coverage for 406 MHz SARSAT EPIRBs (the type to be required by the Coast Guard) is worldwide, and not limited due to inadequate ground stations. The limits noted apply to the coverage area for the older, 121.5 MHz EPIRBs. Additional ground stations will complete our coverage for 121.5 MHz EPIRBs, and they will also speed up delivery of 406 MHz EPIRB information.

11

CONGRESSMAN CLEMENT'S QUESTIONS
WITH COAST GUARD ANSWERS: (2)
EPIRB HEARING, (H.R 4557), 03/08/88

QUESTION. WHAT STEPS ARE BEING TAKEN TO FILL THE GAPS IN THE SARSAT SYSTEM AND DOES THE COAST GUARD CONTRIBUTE ANY FUNDS TO THE SYSTEM, PARTICULARLY FOR THE ESTABLISHMENT OF GROUND STATIONS OR THE CONSTRUCTION AND LAUNCHING OF SATELLITES?

Answer. The gaps in coverage area exist only when 121.5 MHz EPIRBS are used with the SARSAT system. No gaps in coverage exist with the 406 MHz EPIRBs. Because the 121.5 MHz EPIRBs are expected to be in use for the forseeable future, funding is being sought to provide ground coverage for the gaps in the 121.5 MHz SARSAT system but efforts thus far have been unsuccessful. The Coast Guard and Air Force share evenly in funding the operation and maintenance of three ground stations. Contributions for constructing, launching and testing of system satellites are provided by participating nations. Nationally, the Coast Guard, Air Force, National Aeronautics and Space Administration (NASA), and National Oceanic and Atmospheric Administration (NOAA) contribute funds to make up the United States share.

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CONGRESSMAN CLEMENT'S QUESTIONS
WITH COAST GUARD ANSWERS:(3)
EPIRB HEARING, (H.R. 4557), 03/08/88

QUESTION. WHAT CAUSES FALSE ALARMS FROM EPIRBS AND OTHER SIGNALING EQUIPMENT AND ARE THERE ANY TECHNOLOGICAL CHANGES THAT CAN BE MADE IN THE EQUIPMENT THAT WILL MINIMIZE OR REDUCE FALSE ALARMS?

Answer. The difficulties with the present system arise from both false alarms and false alerts. False alarms result when EPIRBs or aircraft Emergency Locater Transmitters (ELTs) are unintentionally activated. False alerts are alerts relayed by the satellite from a transmission on 121.5 MHz by a source other than an EPIRB or an aircraft ELT.

False alarms from EPIRBs are primarily caused by human error, e.g. improper handling. We can minimize human error by using beacon design elements that are intended to reduce inadvertent activation. The Coast Guard tracks down about 300 EPIRB/ELT false alarms a year, which accounts for approximately four percent of the total Coast Guard search hours. EPIRB/ELT false alarms in the maritime area are not a significant problem to the Coast Guard.

The most serious problem is false alerts. SARSAT satellites will relay any 121.5 MHz signal to the ground station. Since 121.5 MHz is also a congested aviation distress and calling frequency, it comes as no surprise that roughly 98 percent of the signals relayed by SARSAT are not EPIRB alerts. During the second quarter of fiscal year 1988 the Coast Guard received 7286 initial 121.5 MHz alerts; only 126 of the alerts were resolved. Of the 126, 81 were determined to be EPIRB/ELT false alarms. Actual distresses accounted for a mere 13. The remainder were attributed to some type of transmitter interference. Improvements to the 121.5MHz system will only achieve a limited reduction of false alerts because as we refine the system we run the risk of filtering out valid signals.

The 406 MHz satellite EPIRB provides several advantages over the 121.5 MHz EPIRB. It was designed for use with the SARSAT System. The 406 MHz frequency has been allocated for the exclusive use of low-powered, earth-to-space EPIRBs. Design features have been added to minimize, as well as call attention to, inadvertent activations. Improved location accuracy and the coded data which is relayed with the alert helps expedite the rescue effort. The most notable advantage is the satellite's ability to recognize and relay only the 406 MHz beacon alerts.

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The purpose of an EPIRB is to provide timely alerting and locating information when normal two-way communication is not possible. During the second quarter of fiscal year 1988 only 94 of 7286 alerts were attributable to EPIRBs/ELTs. Given this small number of possible emergencies compared to the alerts received, it is not practical or prudent to commit resources to a search and rescue effort unless we have corroborating information. The delay associated with developing corroborating information detracts from the purpose of the EPIRB. The 406MHz system's significantly improved alert signal reliability meets the purpose of the EPIRB.

U.S. Department
of Transportation
**United States
Coast Guard**

Commandant
United States Coast Guard

Washington, D.C. 20593-0001
Staff Symbol:
Phone:

G-CC/104
366-4280

5730
NOV 9 1988

The Honorable Earl Hutto
Chairman, Subcommittee on Coast Guard
and Navigation
Committee on Merchant Marine and Fisheries
House of Representatives
Washington, D. C. 20515-6230

Dear Mr. Chairman:

The attached Questions and Answers for the Record of your Committee's hearing on 3 August 1988, concerning a bill to transfer the Bridge Administration Program are submitted as per your request. All responses have been reviewed and approved, as required by the Department of Transportation and the Office of Management and Budget.

Please do not hesitate to call if I can provide further assistance.

Sincerely,

R. T. Rufe
Captain, U. S. Coast Guard
Chief, Congressional Affairs Staff
By direction of the Commandant

Enclosure: (1) Qs and As for Congressman Earl Hutto, 1-5
(2) Qs and As for Congressman Bob Clement, 1

Copy: (1) Ms. Sherry Steele, Minority Staff

CONGRESSMAN HUTTO QUESTIONS
WITH COAST GUARD ANSWERS: (1)
BRIDGE ADMINISTRATION HEARING, 03/08/88

QUESTION. WHO WILL BE RESPONSIBLE FOR THE DAILY OPERATION AND MAINTENANCE OF THE NUMEROUS DRAWBRIDGES IN OPERATION AROUND THE COUNTRY, AND WHO WILL SET THE CRITERIA FOR OPENING THESE BRIDGES WHEN WATERWAY TRAFFIC REQUIRES PASSAGE?

Answer. Bridge owners are responsible for the daily operation and maintenance of the numerous drawbridges around the country. The criteria for opening these bridges are set forth in 33 CFR Part 117 and are currently set by the Coast Guard. After transfer, the bridge owners will still be responsible for the daily operation and maintenance according to criteria set by the Corps of Engineers and set forth in the CFR.

CONGRESSMAN HUTTO QUESTIONS
WITH COAST GUARD ANSWERS: (2)
BRIDGE ADMINISTRATION HEARING, 03/08/88

QUESTION. HAS THE CORPS OR THE COAST GUARD LOOKED AT THE FEASIBILITY OF TRANSFERRING ONLY THE PERMITTING AND CONSTRUCTION PHASES OF THE BRIDGE PROGRAM AND LEAVING THE DAY-TO-DAY WATERWAY OPERATIONS WITH THE COAST GUARD?

Answer. The feasibility of transferring only the permitting and construction phases of the bridge program and retaining day-to-day waterway operations in the Coast Guard was looked at in the totality of the proposed transfer. Current employees of the bridge program work in all phases of that program -- permitting, construction, and day-to-day waterway operations. Only 5% of their workload is attributed to day-to-day waterway operations. All Coast Guard bridge program employees are scheduled to be transferred to the Corps, and are needed for the permitting and construction phases of the program. By retaining some of these employees, the Coast Guard would seriously impact the Corps' ability to absorb the permitting and construction phases. Hiring and training new Coast Guard employees to manage this relatively small segment of the total program workload was not considered feasible.

CONGRESSMAN HUTTO QUESTIONS
WITH COAST GUARD ANSWERS: (3)
BRIDGE ADMINISTRATION HEARING, 03/08/88

QUESTION. IT HAS BEEN NOTED THAT IT MAY WELL COST APPROXIMATELY $1.5 MILLION DOLLARS TO COMPLETE THE TRANSFER OF PERSONNEL AND SUPPORTING EQUIPMENT AND NEITHER THE COAST GUARD NOR THE ARMY CORPS OF ENGINEERS DID A COST/BENEFIT ANALYSIS CONCERNING THE TRANSFER. MR. DOYLE STATED IN HIS TESTIMONY THAT "THERE HAS BEEN A CONCEPTUAL EVALUATION OF THE BENEFITS THAT WOULD RESULT FROM THE CONSOLIDATION OR FROM THE TRANSFER." PLEASE EXPLAIN THE METHOD AND BENEFITS FROM THE EVALUATION AND EXPLAIN HOW MUCH IT IS GOING TO COST THE CORPS TO ADMINISTER THE PROGRAM, WHAT COST SAVINGS ARE TO BE EXPECTED AND FROM WHAT SOURCES?

Answer. $1.5 million is the upper estimate of the costs based on all employees required to relocate being homeowners and electing to transfer with the program. We know this is not so -- many are not homeowners and some homeowners will remain where they are currently located. Based on current employee data the best estimate is $611,000. The conceptual evaluation concerned savings to the Federal Government through decentralization of the program by the COE and reduced duplication for concurrent permit processing. For FY's 86, 87, and 88, Coast Guard travel costs for bridge administration purposes were approximately $61,732, $59,336 and $88,584, respectively. Decentralization and elimination of duplicate travel is estimated to save approximately $57,820 per year by eliminating nearly all travel costs currently incurred by Coast Guard Headquarters and up to 75% of travel to the government that is duplicative. Basic costs to administer the program will not change, but overall savings to the government from travel alone would result in transfer cost payback in less than 11 years (10.7).

Additionally, there are approximately 30 senior Coast Guard uniformed personnel (0-5 to 0-10) with some involvement in program management as well as one full-time 0-6. These officials would present an efficiency savings by being freed up to devote full time to other Coast Guard missions such as Aids to Navigation, Military Readiness, Search and Rescue, Marine Safety and Enforcement of Laws and Treaties.

CONGRESSMAN HUTTO QUESTIONS
WITH COAST GUARD ANSWERS: (4)
BRIDGE ADMINISTRATION HEARING, 03/08/88

QUESTION. WE UNDERSTAND THAT 32 OF THE 55 PERSONNEL AFFECTED WILL BE REQUIRED TO TRANSFER TO A NEW DUTY STATION. WHAT EFFORTS WILL BE MADE TO ACCOMMODATE INDIVIDUALS WHO DO NOT WISH TO RELOCATE?

Answer. Personnel who do not wish to relocate will be provided outplacement assistance from applicable programs of the Office of Personnel Management as well as the Coast Guard's Job Referral Assistance Program. Employees who decline relocation will be considered for available positions for which qualified in their local commuting area. Further, those eligible may retire on an optional or discontinued service basis instead of relocating.

CONGRESSMAN HUTTO QUESTIONS
WITH COAST GUARD ANSWERS: (5)
BRIDGE ADMINISTRATION HEARING, 03/08/88

QUESTION. ACCORDING TO WRITTEN TESTIMONY, THE CORPS ESTIMATES THAT THIS TRANSFER WILL REQUIRE IT TO DO ONLY ONE ADDITIONAL EIS STUDY PER YEAR. PLEASE EXPLAIN WHY, OUT OF THE NEW 110 PERMITS YOU WILL HANDLE, THERE IS NEED FOR ONLY ONE ADDITIONAL EIS STUDY PER YEAR.

Answer. The overwhelming majority of new permit cases requiring an EIS are under the Federal Highway Administration funding assistance program. The EISs are therefore funded and prepared under FHWA. Out of the permits not under FHWA, an average of one per year requires an EIS funded by the Coast Guard. That is the one EIS which, on average, will be the Corps' responsibility after the transfer.

CONGRESSMAN CLEMENT QUESTIONS
WITH COAST GUARD ANSWERS: (1)
BRIDGE ADMINISTRATION HEARING, 03/08/88

QUESTION. ONE OF THE ARGUMENTS SUPPORTERS MAKE IS THAT THE CORPS 38 DISTRICT OFFICES CAN PROVIDE MORE PERSONAL SERVICE THAN THE 10 COAST GUARD DISTRICT OFFICES. THAT IS TRUE IF YOU FIRST KNOW WHICH OFFICE HAS RESPONSIBILITY FOR THE BRIDGE YOU ARE INTERESTED IN. DID THE COAST GUARD EXPERIENCE A LOT OF COMPLAINTS ABOUT THEIR LACK OF RESPONSIVENESS?

Answer. In some areas the Coast Guard has experienced complaints about lack of responsiveness. All Coast Guard files will be transferred to the appropriate COE offices. Individuals, corporate bodies and governmental bodies already must know what COE office has responsibility for the project of interest because they must also determine applicability of, and in most cases, obtain a concurrent COE permit.

ONE HUNDREDTH CONGRESS

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U.S. House of Representatives
Committee on
Merchant Marine and Fisheries
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DUNCAN C. SMITH III

August 17, 1988

Admiral Paul A. Yost, Jr.
Commandant
United States Coast Guard
2100 Second Street, S.W.
Washington, D.C. 20593-0001

Dear Admiral Yost:

The Subcommittee appreciates the testimony presented by RADM Robert T. Nelson and Captain James Seabrooke on your behalf at our August 3, 1988, hearing on H.R. 4558, a bill to transfer the Bridge Administration Program from the Coast Guard to the Army Corps of Engineers.

As I mentioned at the hearing, I have some additional questions that should be answered for the record. Those questions, along with questions submitted by Congressman Bob Clement, are enclosed.

The Subcommittee has scheduled a markup on H.R. 4558 for Wednesday, September 14, 1988, followed by a full committee markup the next day. In order to resolve all Subcommittee concerns before markup, please provide responses to these questions by September 1, 1988.

Sincerely,

Earl

Earl Hutto, Chairman
Subcommittee on Coast Guard
and Navigation

Enclosure

QUESTIONS FOR THE RECORD SUBMITTED BY MR. HUTTO TO THE COAST GUARD AND THE ARMY CORPS OF ENGINEERS ON H.R. 4558, A BILL TO TRANSFER THE BRIDGE ADMINISTRATION PROGRAM

1. Who will be responsible for the daily operation and maintenance of the numerous draw bridges in operation around the country, and who will set the criteria for opening these bridges when waterway traffic requires passage?

2. Has the Corps or the Coast Guard looked at the feasibility of transferring only the permitting and construction phases of the bridge program and leaving the day-to-day waterway operations with the Coast Guard?

3. If the Corps receives a complaint about bridge operations, bridge safety or neglect, what system has been or will be established to investigate, correct the situation, and penalize the bridge operator, if necessary?

4. It has been noted that it may well cost approximately $1.5 million dollars to complete the transfer of personnel and supporting equipment and neither the Coast Guard nor the Army Corps of Engineers did a cost/benefit analysis concerning the transfer. Mr. Doyle stated in is testimony that "there has been a conceptual evaluation of the benefits that would result from the consolidation or from the transfer." Please explain the method and benefits from the evaluation and explain how much it is going to cost the Corps to administer the program, what cost savings are to be expected and from what sources?

5. We understand that 32 of the 55 personal affected will be required to transfer to a new duty station. What efforts will be made to accommodate individuals who do not wish to relocate?

6. It is stated that transfer of the necessary funds ($2.3 million per year) for personnel will accompany transfer of the bridge program. Does the Corps intend to eliminate any of the transferred civilian positions?

7. As we all know, regulations and policies are subject to interpretation depending on one's point of view. What steps is the Corps going to take to ensure that all district offices interpret the regulations with some consistency?

8. According to written testimony, the Corps estimates that this transfer will require it to do only **ONE** additional EIS study per year. Please explain why, out of the new 110 permits you will handle, there is need for only one additional EIS study per year.

9. It is stated that this bill does not attempt to **RECODIFY** the present bridge statutes at this time. When will recodification occur, who will draft the legislation, and how will it affect the legal statutes or the transfer?

QUESTIONS FOR THE RECORD SUBMITTED BY MR. CLEMENT TO THE COAST GUARD AND THE ARMY CORPS OF ENGINEERS ON H.R. 4558 A BILL TO TRANSFER THE BRIDGE ADMINISTRATION PROGRAM

1. One of the arguments supporters make is that the Corps 38 district offices can provide more personal service than the 10 Coast Guard district offices. That is true if you first know which office has responsibility for the bridge you are interested in. Did the Coast Guard experience a lot of complaints about their lack of responsiveness?

2. What specific decision-making responsibilities will be delegated to the Corps district offices and which will be retained by the division offices and which will be retained by headquarters?

3. Which office at the district, division and headquarters levels will be responsible for the decisions delegated at the respective level?

4. Within the Corps, will there be a position of deputy assistant secretary for bridge operations or some similar centralized office created?

GEORGE J. RYAN, *President*
GORDON D. HALL, *Vice President / Treasurer*
CAROL ANN LANE, *Secretary*

THOMAS O. MURPHY, *General Counsel*
GLEN G. NEKVASIL, *Communications Director*

LAKE CARRIERS' ASSOCIATION
614 Superior Avenue, N.W.
915 Rockefeller Building
Cleveland, Ohio 44113-1306
(216) 621-1107

August 9, 1988

The Honorable Earl Hutto
Chairman
House Subcommittee on Coast Guard and Navigation
H2-547 House Office Building, Annex II
Washington, D.C. 20515

Dear Congressman Hutto:

I am writing to express the opposition of our 14 member companies to H.R. 4558. The Bridge Administration Transfer Act.

Lake Carriers' Association represents 14 United States-flag Great Lakes fleets. The 14 member fleets have a combined total of 66 vessels with a per-trip capacity of 1,855,810 gross tons of bulk cargo. These vessels comprise more than 95 percent of the tonnage of United States Great Lakes vessels and approximately 33 percent of all United States self-propelled vessels of 1,000 gross registered tons or larger engaged in the domestic trade.

Our member companies are primarily concerned with approval of location and plans of bridges and causeways and regulation of the operation of drawbridges. The proper administration of the laws governing these matters is of paramount importance to heavy industry in the Great Lakes states which are dependent upon Lake shipping to move raw materials and finished goods.

The Association, on behalf of its members, reviews perhaps a half-dozen plans a year for new construction or alteration of bridges across navigable waterways of the United States transited by our members' vessels. We are most interested in ensuring that horizontal and vertical clearances consistent with other bridges on the waterway are maintained and that adequate fendering is provided to ensure safe passage at times when high winds and/or unusual river currents exist.

Our most crucial communications usually involve phone calls from the Coast Guard relevant to authorizing temporary bridge closures for routine and emergency repairs. Normally this is initiated by the Coast Guard after a request for closure is received from the bridge owner. The Coast Guard seeks to find out from the Association when the closure can be authorized with no or the least impact to our member vessels, and by a poll of our fleets, response can normally be provided in a couple of hours.

Other matters concerning day-to-day operation of drawbridges have to do with limiting hours of opening a bridge to preclude continuing disruption to vehicular traffic using the bridge, and lastly complaints from waterway users about failures of bridges to open upon signal from the vessel needing to transit.

Each of these subjects require very close liaison between the Coast Guard and user to ensure reliability and limit costly delays to the commercial user of the waterway. All of these functions are currently carried out, with a very capable and responsive staff of three, at the district headquarters of the Coast Guard in Cleveland, Ohio for all waters of the Great Lakes.

Continued . . . /

American Steamship Company • Bethlehem Steel Corporation • Cement Transit Company • Cleveland Tankers, Inc. • Erie Sand Steamship Co.
Inland Lakes Management, Inc. • Inland Steel Company • The Interlake Steamship Company • Litton Great Lakes Corp. • M.A. Hanna Company
Oglebay Norton Company • Pringle Transit Company • Rouge Steel Company • USS Great Lakes Fleet, Inc.

Under the proposed legislation, these functions would be fractured and assigned to the three Corps of Engineers District Offices at either Buffalo, Detroit, or Chicago. One personnel position transferred from the Coast Guard to the Corps would have bridge responsibilities in each Corps Office.

When bridge repairs are required which necessitate closing a bridge and waterway for a time, it is an urgent matter to both the bridge owner and waterway user. I calculate that under the proposal the designated Corps "bridge expert" will be absent three to four weeks a year on annual leave, a week on sick leave, and if he's doing his job, you can add another week's absence for travel regarding bridge matters in his area of responsibility. During this time, I perceive the Corps will be non-responsive to bridge matters due to lack of depth in bridge expertise, whereas the Coast Guard, with a three person staff cross-trained in one office, has the back-up required to conduct this vital function.

Change from the present very responsive Coast Guard system on the Great Lakes to the one which would evolve can hardly be classed as progress. I perceive a very significant reduction in service and government efficiency to the public currently served so well.

I think some concrete evidence of cost savings and efficiency should be provided before this shift in responsibility is authorized by Congress. Some significance should be attached to the 1982 Coast Guard Roles and Mission Study conducted by an interagency task group representing the Office of the Secretary of Transportation, the Office of Management and Budget, and the Coast Guard. Quotes from that Study are provided as Enclosure 1.

I think it is very germane to note that the Study does not advocate transfer of the Bridge function and cites no major administrative problems. I believe it is fair to say that there has been no significant change in the Bridge Administration Program since which would now warrant the action proposed.

Other valid points to support retention of the mission by the Coast Guard are that the Coast Guard has a 24-hour presence at its many Stations and at its Rescue Coordination Center in Cleveland. The Corps of Engineers does not have such a presence and would be unable to respond to middle of the night and weekend interruptions in bridge service and ensure essential issuance of Broadcast Notice to Mariners which advise mariners of problems. This is but one instance of the effective liaison currently in existence between the Coast Guard's Bridge and Aids to Navigation programs which should be perpetuated.

In summary, our member companies believe the potential for improving performance (which includes cost savings) is very, very limited. It is doubtful that true economies can be realized by transfer of the function and 55 billets to the Corps of Engineers. We request that before Congress just accepts the statements of administration officials that this transfer will be bona fide progress, real evidence be shown. Then balance that evidence with the obvious detrimental effects of such a transfer.

Sincerely yours,

George J. Ryan
President

GJR:GDH:emh
cc: See Attached

LAKE CARRIERS' ASSOCIATION

A copy of the attached letter, dated August 9, 1988, addressed to Congressman Earl Hutto, Chairman of the House Subcommittee on Coast Guard and Navigation, signed by George J. Ryan, regarding the Bridge Administration Transfer Act, was sent to the following Congressmen:

House Subcommittee on Coast Guard and Navigation:

William J. Hughes
Gerry A. Studds
William O. Lipinski
Thomas R. Carper
Owen B. Pickett
Joseph E. Brennan
George J. Hochbrueckner
Dennis M. Hertel
Charles E. Bennett
Mike Lowry
Bob Clement

Robert W. Davis,
  Ranking Minority Member
Don Young
Herbert H. Bateman
Howard Coble
Mac Sweeney
Curt Weldon
Patricia Saiki
Jim Bunning
Ernie Konnyu

Committee on Merchant Marine and Fisheries:

Walter B. Jones, Chairman
Mario Biaggi, Vice Chairman

GJR:GDH:emh
08/09/88

LAKE CARRIERS' ASSOCIATION

ENCLOSURE 1

QUOTES FROM COAST GUARD ROLES AND MISSION STUDIES REPORT - MARCH 1982

Page 79

The 15-year experience of the Coast Guard's administration of the Bridge program has been economical and efficient. Moreover, Bridge Administration is related to other Coast Guard progams associated with waterway safety, such as the lighting and marking of bridges, the investigation of accidents involving collision with bridges, and the marking of waterways for safe approaches to bridges.

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The Corps of Engineers and the Federal Highway Administration, however, have supportive roles in the Coast Guard's program of Bridge Administration. . . . (This) should be reexamned to determine if the Corps of Engineers and the Federal Highway administration can take on additional supporting functions.

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Under "Conclusions" - The Coast Guard has administered the program effectively and both land and waterway transportation interests are satisfied with the fairness and objectivity of the Coast Guard's administration. There are selective opportunities for the use of Corps of Engineers and Federal Highway Administration personnel . . ., in accomplishing some aspects of bridge permit administration.

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Under "Recommendations" - The Coast Guard should review and, as necessary, revise its interagency agreements with the Corps of Engineers and Federal Highway Administration for greater assistance in detailed aspects of Bridge Administration, such as environmental impact studies, local investigation, and technical assistance.

GJR:GDH:emh
08/09/88

THE GREAT LAKES TOWING COMPANY
1800 TERMINAL TOWER
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800/621-4330 (OHIO)

August 2, 1988

Mr. Earl Hutto
Subcommittee on Coast Guard and Navigation
H2-548 House Office Building II
3rd and D Street S. W.
Washington, D. C. 20505

Dear Mr. Hutto:

As stated, H.R. 4557 will establish a requirement that all uninspected vessels operating on the Great Lakes carry an EPIRB. Great Lakes does not distiguish between the term harbors and the high seas, meaning greater than three miles from shore, as is the case for ocean coasts. With due regard to this fact, in a business such as ours which is primarily involved with harbor towing, the bill is unfairly biased. To support this, I offer the following.

Harbor tugs by their very nature routinely operate within the confined waters of the particular port to which they are assigned. On occasion, they will escort a vessel from just outside of the port entrance to its berth. This distance is always within sight of land. In addition, all of our tugs engaged in harbor towing maintain communication with our central dispatch office. Likewise, when any one of our vessels is engaged in an outside tow -- meaning greater than three miles from shore, the dispatcher is under direction to contact them via VHF at least once every four hours and log it accordingly. Consequently, in all fairness, uninspected towing vessels on the Great Lakes whose primary operating area is within a particular port or who will not travel greater than three miles from shore should be exempt from carrying an EPIRB. This reasoning would be similar to the requirement placed on vessels operating within the three mile limit adjacent to the high seas where no EPIRB is required, and where the vessel will be greater than three miles from a Great Lakes shoreline, an EPIRB would be a prudent safety item.

In closing, I want to thank you for the opportunity to comment on H.R. 4557. Similarly, I will always be willing to provide comment on any relevant Great Lakes maritime-related issues.

Sincerely yours,

John Bennett

John Bennett
Operations Manager

JB/cmp

FLORIDA DEPARTMENT OF TRANSPORTATION

BOB MARTINEZ
GOVERNOR

605 Suwannee Street, Tallahassee, Florida 32399-0450, Telephone (904) 488-8541

KAYE N. HENDERSON
SECRETARY

June 7, 1988

Mr. Jim Witkowski
Coast Guard and Navigation Subcommittee
U. S. House of Representatives
Committee on Merchant Marine and Fisheries
Room 1334, Longworth House Office Building
Washington, D. C. 20515-6230

Mr. Witkowski:

Mr. Serianni has forwarded your letter of May 31, 1988 regarding H.R. 4558 to me for response. We applaud the efforts of this proposed bill to reduce the duplication effort in the permitting process. The Florida Department of Transportation is usually required to obtain permits from the U. S. Army Corps of Engineers on the same projects that required a permit from the U. S. Coast Guard. It has been our experience that the review period and time to permit issuance has been about one year for the USCG and six months for the USACOE. The delegation of the permitting authority to the U. S. ~~Army~~ Corps of Engineers will expedite the process as well as provide a means for the entire road and bridge project to be reviewed and permitted as a unit.

We appreciate the opportunity to comment on this proposed bill. If I can be of any further assistance, please feel free to call on me.

Sincerely,

Jacob C. Kraft

Jacob C. Kraft
Chief, Bureau of Environment
904/488-2911

cc: Nick Serianni

FLORIDA DEPARTMENT OF TRANSPORTATION

BOB MARTINEZ
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KAYE N. HENDERSON
SECRETARY

June 30, 1988

Honorable Earl Hutto, M.C.
First Florida District
2435 Rayburn House Office Building
Washington, D.C. 20515-0901

Dear Congressman Hutto:

It was a pleasure visiting briefly with you in Washington, D.C. last week.

During our conversation I mentioned H.R. 4558, the Bridge Administration Transfer Act. Let me re-emphasize the Department's support for the bill.

I am enclosing recent correspondence which we had with Jim Witkowski of the House Coast Guard and Navigation Subcommittee staff. We firmly believe enactment of H.R. 4558 will save time and eliminate duplication of effort during the permitting process. Therefore, if the Department can be helpful in expediting passage of H.R. 4558, feel free to call on me at any time (904/488-3054).

Thank you for your support.

Sincerely,

N. Serianni

Nick Serianni
Director of Federal Programs

NS/bls
Enclosures

cc: Secretary Henderson